

traded futures and exchange-traded options (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>35</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act.

Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2014-019 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2014-019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site <http://www.sec.gov/rules/sro.shtml>.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2014-019 and should be submitted on or before May 6, 2014.

#### V. Accelerated Approval of Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The proposed Amendment supplements the proposed rule change by limiting the type and amount of derivatives in which the Fund may invest and makes modifications related thereto, adds greater clarity regarding the intended investment limitations regarding non-investment grade securities and distressed municipal securities, and provides how Net Asset Value will be calculated with respect to repurchase agreements. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>36</sup> to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>37</sup> and the rules and regulations thereunder applicable to a national securities exchange.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>38</sup> that the proposed rule change (SR-NASDAQ-2014-019), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>39</sup>

**Kevin M. O'Neill**,

*Deputy Secretary.*

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<sup>36</sup> 15 U.S.C. 78s(b)(2).

<sup>37</sup> 15 U.S.C. 78f(b)(5).

<sup>38</sup> 15 U.S.C. 78s(b)(2).

<sup>39</sup> CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71909; File No. SR-NYSEARCA-2014-28]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, Amending Rule To Change the Time By Which Purchase Orders and Redemption Orders Must Be Placed With Respect to the Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF

April 9, 2014.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on March 28, 2014, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, which filing was amended by Amendment No. 1 thereto on April 2, 2014,<sup>4</sup> as described in Items I and II below, which Items have been prepared by the Exchange. 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 is submitting a proposed rule change to change the time by which purchase orders and redemption orders must be placed with respect to the Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF (the "Funds"). The Commission has approved listing and trading of shares of the Funds on the Exchange under NYSE Arca Equities Rule 8.200. 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,

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> In Amendment No. 1, the Exchange corrected erroneous references to the term "Adviser" in the Filing and replaced such references with the term "Managing Owner."

<sup>35</sup> 15 U.S.C. 78f(b)(5).

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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Commission has approved listing and trading on the Exchange of shares ("Shares") of the following under NYSE Arca Equities Rule 8.200: Market Vectors Low Volatility Commodity ETF ("Low Volatility ETF") and Market Vectors Long/Short Commodity ETF ("Long/Short ETF") under NYSE Arca Equities Rule 8.200, which governs the listing and trading of Trust Issued Receipts.<sup>5</sup> Shares of the Funds have not yet commenced trading on the Exchange.

Each Fund is a series of the Market Vectors Commodity Trust (the "Trust"), a Delaware statutory trust.<sup>6</sup>

Van Eck Absolute Return Advisers Corp. is the managing owner of the Funds ("Managing Owner"). The Managing Owner also serves as the commodity pool operator and commodity trading advisor of the Funds. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission ("CFTC"), and is a member of National Futures Association. Wilmington Trust, National Association ("Trustee"), a national bank with its principal place of business in Delaware, is the sole trustee of the Trust. The Bank of New York Mellon will be the

custodian, administrator and transfer agent for the Funds.

In this proposed rule change, the Exchange proposes to change the time by which purchase orders and redemption orders must be placed. The Prior Release stated that purchase orders and redemption orders to create and redeem one or more blocks of 50,000 Shares ("Baskets") of the Funds must be placed by authorized participants by 1:00 p.m. Eastern Time ("E.T."). The Exchange proposes to change this representation to state that purchase orders and redemption orders to create Basket size aggregations of Shares of the Funds must be placed by authorized participants by 11:00 a.m. E.T.<sup>7</sup> The Managing Owner represents that, upon further analysis, it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time for placing orders to create or redeem Shares of the Funds will permit it to more efficiently process orders to create and redeem such Shares. Trading in certain of the futures contracts in the Morningstar® Long/Flat Commodity Index and the Morningstar® Long/Short Commodity Index closes as early as 1:00 p.m. E.T., and trading in a substantial number of other component futures contracts closes at 2:00 p.m. E.T. or earlier. The Managing Owner represents that, in view of the varying closing times for applicable futures contracts, an earlier cut-off time could permit the Managing Owner to more efficiently engage in transactions in the applicable futures markets in connection with orders to create or redeem Shares, which may help reduce the premium or discount on the Shares, and reduce the difference between the price of the Shares and the NAV of such Shares.<sup>8</sup>

The Exchange notes that the Commission previously has approved representations relating to issues of Trust Issued Receipts whereby the cut-off time for placing orders to create or redeem shares of an issue of Trust Issued Receipts is earlier than 1:00 p.m. E.T.<sup>9</sup>

<sup>7</sup> The changes described herein will be effective upon filing with the Commission of another amendment to the Registration Statements. See note 6, *supra*. The Managing Owner represents that it will not implement the changes described herein until the instant proposed rule change is operative.

<sup>8</sup> As stated in the Prior Release, the Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF seek to track changes, whether positive or negative, in the performance of the Morningstar® Long/Flat Commodity Index and Morningstar® Long/Short Commodity Index, respectively, over time.

<sup>9</sup> See, e.g., Securities Exchange Act Release No. 63915 (February 15, 2011), 76 FR 9843 (February 22, 2011) (SR-NYSEArca-2010-121) (order approving listing and trading on the Exchange of FactorShares Funds under NYSE Arca Equities Rule

The Adviser represents that there is no change to the Funds' investment objectives from those described in the Prior Release. The Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200.

Except for the changes noted above, all other facts presented and representations made in the Prior Release remain unchanged.

All terms referenced but not defined herein are defined in the Prior Release.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>10</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200. The Exchange notes that the Commission previously has approved representations relating to issues of Trust Issued Receipts whereby the cut-off time for placing orders to create or redeem shares of an issue of Trust Issued Receipts is earlier than 1:00 p.m. E.T.<sup>11</sup>

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to each Fund's investment objective as described in the Prior Release. The Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200. The Managing Owner represents that, upon further analysis, it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time for placing orders to create or redeem Shares of the Funds will permit it to more efficiently process orders to create and redeem Shares. Trading in certain of the futures

8.200); 63753 (January 21, 2011), 76 FR 4963 (January 27, 2011) (SR-NYSEArca-2010-110) (order approving listing and trading of shares of Teucrium Natural Gas Fund under NYSE Arca Equities Rule 8.200); 63869 (February 8, 2011), 76 FR 8799 (February 15, 2011) (SR-NYSEArca-2010-119) (order approving listing and trading of shares of Teucrium WTI Crude Oil Fund under NYSE Arca Equities Rule 8.200).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See note 9, *supra*.

<sup>5</sup> See Securities Exchange Act Release No. 70209 (August 15, 2013), 78 FR 51769 (August 21, 2013) (SR-NYSEArca-2013-60) (Order Granting Approval of Proposed Rule Change to List and Trade Shares of Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF under NYSE Arca Equities Rule 8.200) ("Prior Order"). See also See Securities Exchange Act Release No. 69862 (June 26, 2013), 78 FR 39810 (July 2, 2013) (SR-NYSEArca-2013-60) ("Prior Notice," and together with the Prior Order, the "Prior Release").

<sup>6</sup> The Trust filed a pre-effective amendment to its registration statements with respect to the Funds on Form S-1 under the Securities Act of 1933 ("1933 Act") on December 7, 2012 (File No. 333-179435 for the Low Volatility ETF ("Low Volatility Registration Statement") and File No. 333-179432 for the Long/Short ETF ("Long/Short Registration Statement") and, together with the Low Volatility Registration Statement, the "Registration Statements"). The descriptions of the Funds and the Shares contained herein are based, in part, on the Registration Statements.

contracts in the Morningstar® Long/Flat Commodity Index and the Morningstar® Long/Short Commodity Index closes as early as 1:00 p.m. E.T., and trading in a substantial number of other component futures contracts closes at 2:00 p.m. E.T. or earlier. The Managing Owner represents that, upon further analysis, it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time for placing orders to create or redeem Shares of the Funds will permit it to more efficiently process orders to create and redeem such Shares. The Managing Owner represents that, in view of the varying closing times for applicable futures contracts, an earlier cut-off time could permit the Managing Owner to more efficiently engage in transactions in the applicable futures markets in connection with orders to create or redeem Shares, which may help reduce the premium or discount on the Shares, and reduce the difference between the price of the Shares and the NAV of such Shares. The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200. The Managing Owner represents that there is no change to the Funds' investment objectives. Except for the change noted above, all other representations made in the Prior Release remain unchanged.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to the Funds' means of achieving their respective investment objective may permit the Funds to more efficiently handle orders to create and redeem Shares of the Funds and will enhance competition among issues of Trust Issued Receipts based on underlying commodity indexes.

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

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

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

Because the foregoing proposed rule change does not: (i) Significantly affect

the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>14</sup> normally does not become operative for 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)<sup>15</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay to accommodate commencement of trading in the Shares of the Funds on the Exchange without delay. The Exchange states that the Managing Owner intends that trading of the Shares on the Exchange will commence prior to the 30-day delayed operative date.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>16</sup> As stated in this proposal, the proposed change does not alter the Funds' investment objectives. Under the proposal, the Funds seek to change the time by which purchase orders and redemption orders to create and redeem Basket size aggregations of Shares of the Funds must be placed by authorized participants from 1:00 p.m. E.T. to 11:00 a.m. E.T. The Managing Owner represents that it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time will permit it to more efficiently process orders to create and redeem Shares. The Exchange represents that, except for this change, all other representations made in the Prior Release remain unchanged and that the Funds will continue to comply with all initial and continued listing requirements under NYSE Arca Equities

Rule 8.200. Because the proposed change does not alter the Funds' investment objectives and does not raise any novel or unique regulatory issues, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **IV. Solicitation of Comments**

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

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2014-28 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSEArca-2014-28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–28 and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–71915; File No. SR–ISE Gemini–2014–12]

**Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees**

April 9, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 1, 2014 ISE Gemini, LLC (the “Exchange” or “ISE Gemini”) filed with the

Securities and Exchange 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**

ISE Gemini is proposing to amend its Schedule of Fees. The text of the proposed rule change is available on the Exchange’s Internet Web site at <http://www.ise.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 Exchange 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees. The Exchange’s Schedule of Fees has separate tables for fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

1. Qualifying Tier Thresholds

ISE Gemini currently provides volume-based maker rebates and charges volume-based taker fees to Market Maker<sup>3</sup> and Priority Customer<sup>4</sup> orders in four tiers based on a member’s average daily volume (“ADV”) in the following categories: (i) Total Affiliated Member ADV,<sup>5</sup> (ii) Priority Customer Maker ADV,<sup>6</sup> and (iii) Total Affiliated Member ADV with a Minimum Priority Customer Maker ADV, as shown in the table below. The highest tier threshold attained by any method below applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants.

TABLE 1—CURRENT

Tier	Total affiliated member ADV	Priority customer maker ADV	Total affiliated member ADV/minimum priority customer maker ADV
Tier 1 .....	0–64,999	0–19,999	0–39,999/0+
Tier 2 .....	65,000–149,999	20,000–64,999	40,000–114,999/15,000+
Tier 3 .....	150,000–274,999	65,000–114,999	115,000–224,999/45,000+
Tier 4 .....	275,000+	115,000+	225,000+/65,000+

As outlined in the following table, the Exchange now proposes to decrease the thresholds for achieving the four current volume tiers, and to add an additional fifth tier for members that execute either

(i) a Total Affiliated Member ADV of at least 350,000 contracts, (ii) a Priority Customer Maker ADV of at least 125,000 contracts, or (iii) a Total Affiliated Member ADV of at least 250,000

contracts with a Minimum Priority Customer Maker ADV of at least 85,000 contracts.<sup>7</sup>

<sup>17</sup> 17 CFR 200.30–3(a)(12).

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

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

<sup>3</sup> The term Market Maker refers to “Competitive Market Makers” and “Primary Market Makers” collectively. Market Maker orders sent to the Exchange by an Electronic Access Member are assessed fees and rebates at the same level as Market Maker orders. See footnote 2, Schedule of Fees, Section I and II.

<sup>4</sup> A Priority Customer is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>5</sup> The Total Affiliated Member ADV category includes all volume in all symbols and order types, including both maker and taker volume and volume executed in the PIM, Facilitation, Solicitation, and QCC mechanisms.

<sup>6</sup> The Priority Customer Maker ADV category includes all Priority Customer volume that adds liquidity in all symbols.

<sup>7</sup> New maker rebates and taker fees for members that achieve Tier 5 are described in Sections 2 and 3 below. Where not otherwise noted in this proposed rule change, Tier 5 fees will be introduced at the applicable Tier 4 rate.