only in Debt Instruments that, at the time of purchase, are performing.

(8) Under normal market conditions, at least 80% of the Fund's net assets that are invested in Debt Instruments will be invested in Debt Instruments that are issued by issuers with outstanding debt of at least $200 million (or the foreign currency equivalent thereof).

(9) Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in derivative instruments. The Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund's investments in derivative instruments will not be used to seek to achieve a multiple or inverse multiple of an index.

(10) At least 90% of the Fund's net assets that are invested in exchange-traded derivative instruments 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) The Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced. The Adviser and/or the Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis.

(12) At least 90% of the Fund's net assets that are invested in foreign currencies will be invested in currencies with a minimum average daily foreign exchange turnover of USD $1 billion as determined by the BIS Triennial Central Bank Survey.

(13) The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in derivative instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund will earmark or set aside cash, U.S. government securities, high grade liquid debt securities, and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed.

(14) The Fund may invest up to 20% of its net assets in Corporate Bonds. Under normal market conditions, a Corporate Bond must have $200 million (or the foreign currency equivalent thereof) or more par amount outstanding and significant par value traded to be considered as an eligible investment. Although the Fund does not intend to do so, the Fund may invest up to 5% of its net assets in Corporate Bonds with less than $200 million (or the foreign currency equivalent thereof) par amount outstanding if (i) the Adviser and/or the Sub-Adviser deems such securities to be sufficiently liquid and (ii) such investment is deemed by the Adviser and/or the Sub-Adviser to be in the best interest of the Fund.

(15) The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Sub-Adviser to present minimal credit risks in accordance with criteria approved by the Trust Board. The Sub-Adviser will review and monitor the creditworthiness of such institutions. The Sub-Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

(16) The ETFs in which the Fund will invest will be exchange-listed and trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(17) Reverse repurchase agreements will not be used by the Fund to enhance leverage.

(18) 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, as modified by Amendment No. 1 thereto, is consistent with Section 6(b)(5) of the Act [39] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[40] that the proposed rule change (SR–NASDAQ–2014–073), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22670 Filed 9–23–14; 8:45 am]

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[39] 15 U.S.C. 78f(b)(5).

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73142; File No. SR–NASDAQ–2014–065]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Adopt New Rule 5713 and List Paired Class Shares Issued by AccuShares® Commodities Trust I

September 18, 2014.

On June 11, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') 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 to: (1) adopt listing standards for Paired Class Shares in new Rule 5713; and (2) list and trade Paired Class Shares (''Shares'') issued by AccuShares® Commodities Trust I (''Trust'') relating to the following funds pursuant to new Rule 5713: (a) AccuShares S&P GSCI® Spot Fund; (b) AccuShares S&P GSCI® Agriculture and Livestock Spot Fund; (c) AccuShares S&P GSCI® Industrial Metals Spot Fund; (d) AccuShares S&P GSCI® Crude Oil Spot Fund; (e) AccuShares S&P GSCI® Brent Oil Spot Fund; (f) AccuShares S&P GSCI® Natural Gas Spot Fund; and (g) AccuShares Spot CBOE® VIX® Fund (each individually, ''Fund,'' and, collectively, ''Funds''). The proposed rule change was published for comment in the **Federal Register** on June 23, 2014.[3] On August 6, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission received no comments on the proposal. This Order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72412 (June 17, 2014), 79 FR 35610 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 72779, 79 FR 47162 (August 12, 2014). The Commission designated a longer period within which to take action on the proposed rule change and designated September 19, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

approve or disapprove the proposed rule change.

I. Description of the Proposal

A. General Description of Paired Class Shares

"Paired Class Shares" would be issued by a trust on behalf of a fund, each a segregated series of the trust.[7] Paired Class Shares would have values that are based on an index or other numerical variable ("Underlying Benchmark") whose value reflects the value of assets, prices, price volatility, or other economic interests ("Reference Asset").[8] The trust would always issue Paired Class Shares in pairs of shares of opposing classes of each fund. The values of the opposing classes would move in opposite directions as the value of the fund's Underlying Benchmark varies from its starting level, where one constituent of the pair is positively linked to the fund's Underlying Benchmark ("Up Shares") and the other constituent is negatively linked to the fund's Underlying Benchmark ("Down Shares").[9] The rate of linkage or leverage of a fund's Up Shares and Down Shares performance to the performance of the fund's referenced Underlying Benchmark would be one-to-one.[10] The calculation of the liquidation value of a fund attributable to each of its classes of Paired Class Shares ("Class Value"), and to each share of such class's pro rata portion of Class Value ("Class Value per Share"), would be determined according to a mathematical formula.[11]

Each fund would engage in scheduled "regular distributions," and also may engage in: (1) "special distributions," which would be triggered when the Underlying Benchmark exceeds a fixed rate of change since the fund's prior regular or special distribution date or inception date in the case of the first such distribution ("prior distribution date"); and (2) "corrective distributions," which would be triggered when the trading price of a Paired Class Share deviates by a specified amount from its Class Value per Share for a specified period of time. Immediately after each regular, special, and corrective distribution, the fund's Underlying Benchmark participation or exposure would be reset, and the fund's Class Value per Share for each of its classes would be set to equal the lowest Class Value per Share of the two classes of Paired Class Shares. To the extent any class of Paired Class Shares of a fund has a positive net income from income or gain on class assets, after deduction of class liabilities, on a regular or special distribution date as measured from the prior distribution date, such class of Paired Class Shares would receive a distribution in cash equal to such positive net income regardless as to whether such class is entitled to a regular or special distribution on such date.

Paired Class Shares would be structured with the objective of providing investors with exposure to changes in an Underlying Benchmark. The trust issuing Paired Class Shares on behalf of a fund would actively monitor deviations of trading price to Class Value per Share. To the extent there is a material and persistent deviation of a Paired Class Share trading price from such Paired Class Share's Class Value per Share according to pre-set thresholds, the trust issuing the Paired Class Shares would distribute to holders of each class shares of the opposing class, which would leave each holder with an equal number of Up Shares and Down Shares. According to the Exchange, as each holder would own both Up Shares and Down Shares, each holder could redeem their shares through an authorized participant ("Authorized Participant")[12] for cash at their respective Class Values per Share, which would eliminate the premium or discount.

The Exchange further states that, even if a corrective distribution is not triggered, the existence of a fund's corrective distribution feature would be expected to modify investor and Authorized Participant behavior to prevent persistent and material premium and discount conditions for Paired Class Shares from becoming locked. The Exchange states that regular and special distributions would have the effect of delivering changes in Class Value per Share to each class of the Paired Class Shares either directly through the distribution or indirectly through the dilution caused by the distribution.[13] Thus, market expectation of regular and special distributions would cause the trading prices of a fund's Paired Class Shares to experience less-pronounced conditions of premium or discount to Class Value per Share. The Exchange also states that a trust issuing Paired Class Shares on behalf of a fund would make regular and special distributions and reset the Fund's exposure or participation in its Underlying Benchmark to avoid depleting all of the capital of one class of shares.[14] For regular distributions, Paired Class Shares would reset their Underlying Benchmark participation on regularly scheduled dates, and for special distributions, would reset whenever their Underlying Benchmark changes by a set percentage since the prior distribution date. Thus, on each reset date, a percentage change in the Underlying Benchmark would generally correspond to a percentage change in the Class Value per Share and leverage drift would be minimized.[15]

With respect to creations and redemptions of Paired Class Shares, the procedures would be similar in nature to those for other exchange traded products. Paired Class Shares of a fund would be created and redeemed in specified aggregations of equal quantities of Up Shares and Down Shares[16] at their respective Class Values per Share. Paired Class Shares could only be created or redeemed by Authorized Participants.[17] In contrast to other exchange traded products that often allow or require non-cash (in-kind) creation and redemption consideration in the form of specified securities or other assets and do not involve multiple share classes, Paired Class Shares creation and redemption transactions would only occur (a) for cash consideration, and (b) in equal pre-determined quantities of Up Shares and Down Shares.

B. Proposed Listing Standards for Paired Class Shares (NASDAQ Rule 5713)

Proposed Rule 5713(a) indicates that NASDAQ would consider for trading, whether by listing or pursuant to unlisted trading privileges ("UTP"),

[7] *See* proposed NASDAQ Rule 5713(c).

[8] *See id.* The Exchange states that other economic interests would include, for example, currencies, interest rates, non-investable economic indices, and other measures of financial instrument value. *See* Notice, *supra* note 3, 79 FR at 35611, n.11.

[9] *See* proposed NASDAQ Rule 5713(c).

[10] *See* Notice, *supra* note 3, 79 FR at 35611.

[11] *See id.* The Exchange represents that the mathematical formula would be based on the following factors: (1) the value of the fund's assets; (2) the allocation of such value based on changes in the level of the fund's Underlying Benchmark which may be limited, reduced, capped, or otherwise modified according to formula or pre-set parameters; and (3) the daily accrual of gain and income or loss on the assets of the fund, less the liabilities of the fund, as such gains, income losses, and liabilities are allocated to each class of the fund. *See* Notice, *supra* note 3, 79 FR at 35611, n.12.

[12] An Authorized Participant may place orders to create or redeem one or more "Creation Units." *See* note 16 *infra.*

[13] *See* Notice, *supra* note 3, 79 FR at 35612.

[14] *See id.*

[15] The Exchange describes "leverage drift" as circumstances when the percentage changes in the price of shares do not correlate to the percentage changes in the Underlying Benchmark once the Underlying Benchmark increases or decreases over time. *See id.* at 35611.

[16] Each Creation Unit for each Fund would be comprised of 25,000 Up Shares and 25,000 Down Shares. *See id.* at 35612, n.14.

[17] *See id.* at 35612.

Paired Class Shares if the Paired Class Shares meet the criteria of Rule 5713. Proposed Rule 5713(b) clarifies that the rule is applicable only to Paired Class Shares. Subsection (b) also states that except to the extent inconsistent with this Rule, or unless the context otherwise requires, the By-laws and all other rules and procedures of the Board of Directors would be applicable to the trading on NASDAQ of such securities. Paired Class Shares, which are defined in proposed new subsection (c), are included within the definition of ''security'' or ''securities'' as such terms are used in the By-laws and Rules of NASDAQ.

Paired Class Shares Defined

Proposed subsection (c) specifically states that the term ''Paired Class Share'' means a security: (1) That is issued by a trust on behalf of a fund as part of a pair of shares of opposing classes whose respective underlying values move in opposite directions as the value of the fund's Underlying Benchmark (which is defined in NASDAQ Rule 5713(e)) varies from its starting level, where one constituent of the pair is positively linked to the fund's Underlying Benchmark—Up Shares—and the other constituent is inversely linked to the fund's Underlying Benchmark—Down Shares; (2) that is issued in exchange for cash; (3) the issuance proceeds of which are invested and reinvested in highly rated short-term financial instruments that mature within 90 calendar days and that serve certain functions;[18] (4) that represents a beneficial interest in the fund; (5) the value of which is determined by the underlying value of the fund that is attributable to the class of which such security is a part;[19] (6) that, when timely aggregated in a specified minimum number or amount of securities, along with an equal number or amount of the securities of the opposite class that constitute the other part of the pair, may be redeemed for a distribution of cash; and (7) that may be subject to mandatory redemption of all Paired Class Shares under specified circumstances.

Distributions

Proposed Rule 5713(d) provides that a fund may engage in scheduled regular distributions, special distributions that are automatically triggered upon the Underlying Benchmark exceeding a fixed rate of change since the prior distribution, and corrective distributions that are automatically triggered when the trading price of a Paired Class Share deviates by a specified amount from its underlying value for a specified period of time.

Designation

Proposed Rule 5713(e) states that NASDAQ may trade, either by listing or pursuant to UTP, Paired Class Shares whose values are based on an Underlying Benchmark whose value reflects the value of a Reference Asset. Each issue of Up Shares or Down Shares of a fund would be designated as a separate series and would be identified by a unique symbol.

Listing Standards

Proposed Rule 5713(f) sets forth the initial and continued listing criteria. The Exchange proposes to adopt three initial listing requirements in Rule 5713(f)(i): (1) NASDAQ would establish a minimum number of Paired Class Shares for each fund required to be outstanding at the time of commencement of trading on NASDAQ; (2) NASDAQ would obtain a representation from the trust on behalf of each fund that the underlying value per share of each Up Share and Down Share would be calculated daily and that the underlying values and information about the assets of the fund would be made available to all market participants at the same time; and (3) if the Underlying Benchmark is maintained by a broker-dealer or investment advisor, the broker-dealer or investment advisor would be required to erect a ''firewall'' around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark.

Under proposed NASDAQ Rule 5713(f)(ii), NASDAQ would consider the suspension of trading in, or removal from listing of, a fund's Paired Class Shares under any of the following circumstances: (1) If, following the initial twelve-month period beginning upon the commencement of trading of the Paired Class Shares, (a) there are fewer than 50 record or beneficial holders of the fund's Up Shares or Down Shares for 30 or more consecutive trading days, (b) the fund has fewer than 50,000 Up Shares or 50,000 Down Shares issued and outstanding, or (c) the combined market value of all shares of a fund issued and outstanding is less than $1,000,000; (2) if the intraday level of the Underlying Benchmark, or a substitute or replacement Underlying Benchmark based on the same Reference Asset, is no longer calculated or available[20] on at least a 15-second delayed basis during the Regular Market Session[21] when the fund's Paired Class Shares trade on NASDAQ from a source unaffiliated with the sponsor, the custodian, the trustee of the trust, the fund, or NASDAQ that is a major market data vendor (*e.g.,* Reuters or Bloomberg); (3) if the underlying value per share of each Up Share and Down Share of a fund is no longer made available on a daily basis to all market participants at the same time; (4) if the estimate of the value of a share of the series of Paired Class Shares (''Intraday Indicative Value'') of the underlying value of each listed Up Share and Down Share of the fund is no longer made available on at least a 15-second delayed basis by a major market vendor during the time the Paired Class Shares trade on NASDAQ during the Regular Market Session; (5) if the ''firewall'' erected around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark is no longer in place; or (6) if such other event occurs or condition exists which in the opinion of NASDAQ makes further dealings on NASDAQ inadvisable.

Proposed Rule 5713(f)(ii) also provides that upon termination of a fund, Paired Class Shares issued in connection with the fund must be

[18] These functions are: (1) Covering the fund's expenses; (2) providing income distributions to investors, based on income (after expenses) from the financial instruments held by the fund; (3) providing cash proceeds for regular and special distributions to be made in cash in lieu of Paired Class Shares; and (4) providing cash proceeds to be paid upon the redemption of Paired Class Shares. *See id.* at 35612, n.15. Thus, for example, upon redeeming 100 Paired Class Shares an investor would receive cash equal to the NAV per share for each share redeemed. Moreover, a trust issuing Paired Class Shares on behalf of a fund may engage in regular distributions, special distributions, and corrective distributions. *See* proposed NASDAQ Rule 5713(d).

[19] The Paired Class Shares value would either: (1) Increase as a result of an increase in the Underlying Benchmark and decrease as a result of a decrease in the Underlying Benchmark (in the case of an Up Share); or (2) increase as a result of a decrease in the Underlying Benchmark and decrease as the result of an increase in the Underlying Benchmark (in the case of a Down Share). *See* proposed NASDAQ Rule 5713(c)(5).

[20] The Underlying Benchmark may no longer be available due to a number of circumstances, including when the publication of the Underlying Benchmark is no longer economically viable, the data used to compute the Underlying Benchmark is no longer available, or the Underlying Benchmark methodology no longer tracks the same Reference Asset. *See* Notice, *supra* note 3, 79 FR at 35613, n.21.

[21] NASDAQ market makers are open for business during normal market hours of 9:30 a.m. to 4:00 p.m. Eastern Time. *See* NASDAQ Rule 4617. The Exchange states that it has trading hours from 4:00 a.m. until 8:00 p.m. Eastern Time, with trading sessions before and after normal market hours (''Pre-Market'' and ''Post-Market'') and appropriate rules to facilitate transactions during all trading sessions. Normal market hours are also known as the Regular Market Session. *See, e.g.,* Rules 5705 (ETFs: portfolio depository receipts and index fund shares) and 5710 (securities linked to the performance of indexes and commodities (including currencies)).

removed from listing. A fund may terminate in accordance with the provisions of the fund's prospectus, which may provide for termination if the underlying value of the Paired Class Shares falls below a specified amount.

Additional Provisions of Proposed Rule 5713

Provisions relating to the term, trustee, and voting rights are set forth in proposed NASDAQ Rule 5713(f)(iii)–(v). Proposed subsection (f)(iii) states that the stated term of a fund shall be as stated in the fund's prospectus. However, a fund may be terminated under such earlier circumstances as may be specified in the prospectus. Proposed subsection (f)(iv) states that the trustee of a trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee. In addition, no change is to be made in the trustee of a listed issue without prior notice to and approval of NASDAQ. Regarding voting rights, subsection (f)(v) states that such rights, if any, would be as set forth in the applicable fund's prospectus.

Proposed Rule 5713(g) sets forth a limitation of NASDAQ liability with respect to errors, omissions, or delays in calculating or disseminating any applicable Underlying Benchmark value, the underlying value of the fund and its Paired Class Shares, distribution values or any other information relating to the purchase, redemption, or trading of the Paired Class Shares.

With respect to the activity and disclosure of Market Maker accounts, proposed NASDAQ Rule 5713(h) states that an Exchange member must file with NASDAQ, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading in the applicable securities or physical commodities included in (or options, futures, or options on futures on) the Reference Asset of the Underlying Benchmark of any Paired Class Shares (or any other derivatives based on the Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark) that the registered Market Maker may have or over which it may exercise investment discretion. In addition, proposed NASDAQ Rule 5713(h)(i) prohibits registered Market Makers from trading in the applicable securities or physical commodities included in (or options, futures, or options on futures on) the Reference Asset of the Underlying Benchmark of any Paired Class Shares (or any other derivatives based on the Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark) in an account in which the registered Market Maker, directly or indirectly, controls trading activities, or in which the registered Market Maker has a direct interest in the profits or losses thereof, which has not been reported to NASDAQ as required by this proposed Rule. Proposed Rule 5713(h)(ii) provides that, in addition to the existing obligations under NASDAQ rules regarding the production of books and records (*see, e.g.,* NASDAQ Rule 4625), a registered Market Maker in Paired Class Shares must make available to NASDAQ such books, records, or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable securities or physical commodities included in, or options, futures, or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, as may be requested by NASDAQ.

The Exchange also proposes six Commentaries to Rule 5713. Proposed Commentary .01 provides that members must provide all purchasers of newly issued Paired Class Shares a prospectus for the fund. Proposed Commentary .02 states that transactions in Paired Class Shares would occur during the trading hours specified in Rule 4120. Proposed Commentary .03 states that NASDAQ would file separate proposals under Section 19(b) of the Act before trading any new series of Paired Class Shares. Proposed Commentary .04 states that prior to a substitute or replacement Underlying Benchmark being selected for a fund, NASDAQ must file a related proposed rule change pursuant to Rule 19b–4 under the Act to continue trading the Paired Class Shares. Proposed Commentary .05 states that subsection 5713(f)(ii)(D), as discussed previously, is not applicable as a continuing listing standard if a fund's Paired Class Shares have been approved for listing and trading by the Commission under Section 19(b)(2) of the Act without the requirement that an estimate of the Intraday Indicative Value be made available on at least a 15-second delayed basis by a major market vendor during the time the Paired Class Shares trade on NASDAQ during the Regular Market Session. Lastly, proposed Commentary .06 states that NASDAQ would implement written surveillance procedures for trading the Paired Class Shares.

Additional details of proposed NASDAQ Rule 5713 can be found in the Notice and Exhibit 5 thereto.[22]

C. Description of the Trust, the Funds, and the Shares

The Exchange has made the following representations and statements in describing, among other things, the Funds, the corresponding Underlying Benchmarks, arbitrage, and distributions.[23]

The Shares would be offered by the Trust, which is a Delaware statutory trust.[24] AccuShares Investment Management, LLC, a Delaware limited liability company, is the sponsor (''Sponsor''), and Wilmington Trust, N.A., a national banking association, would serve as the trustee (''Trustee'') and the investment advisor (''Investment Advisor'') for each Fund. The Investment Advisor, which is chosen by the Sponsor, would be responsible for investing each Fund's available cash in bills, bonds, and notes issued and guaranteed by the United States Treasury (''United States Treasury Securities'') with remaining maturities of 90 days or less (''Eligible Treasuries'') and over-night repurchase agreements collateralized by United States Treasury Securities (''Eligible Repos,'' and together with cash and Eligible Treasuries, collectively, ''Eligible Assets''). State Street Bank and Trust Company (''State Street''), a Massachusetts trust company, would serve as the custodian, administrator, and transfer agent (''Custodian,'' ''Administrator,'' or ''Transfer Agent'') for each Fund.[25]

[22] *See* Notice, *supra* note 3. *See also http://www.sec.gov/rules/sro/nasdaq/2014/34-72412-ex5.pdf.*

[23] The Commission notes that additional information regarding the Trust, the Funds, and the Shares, including risks, Class Value and Class Value per Share calculations, creation and redemption procedures, fees, disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. *See* Notice, *supra* note 3, and Registration Statement, *infra* note 24, respectively.

[24] The Exchange states that the offer and sale of Paired Class Shares of each Fund would be registered with the Commission by means of the Trust's registration statement on Form S–1 (''Registration Statement'') under the Securities Act of 1933 (''Securities Act''). According to the Exchange, the Registration Statement was filed on March 18, 2014 and will be effective as of the date of such offer and sale. *See* Notice, *supra* note 3, 79 FR at 35615.

[25] The Custodian would hold each Fund's securities and cash and would perform each Fund's Class Value and Class Value per Share calculations. As Administrator, State Street would, among other

Continued

The Underlying Benchmark of each Fund, other than the AccuShares Spot CBOE VIX Fund (''VIX Fund''), would be constructed, calculated, and published by S&P® Dow Jones Indices LLC (''Index Provider'').[26] The CBOE Volatility Index® (''VIX''), which is the Underlying Benchmark of the VIX Fund, would be constructed by the Chicago Board Options Exchange, Incorporated (''CBOE''), and calculated and published by the Index Provider. Both the Index Provider and CBOE are unaffiliated with the Trust and the Sponsor.[27] In accordance with proposed NASDAQ Rule 5713(f)(i)(C), to the extent that an Underlying Benchmark is maintained by a broker-dealer or investment advisor, such broker-dealer or investment advisor would erect a ''firewall'' around personnel who have access to information concerning changes and adjustments to the Underlying Benchmark.

Description of the Underlying Benchmarks

Each S&P GSCI Commodity Index would be constructed, calculated, and published by the Index Provider. The S&P GSCI Spot index (''S&P GSCI''), which would serve as the Underlying Benchmark for the AccuShares S&P GSCI Spot Fund, is an index on a production-weighted basket of currently 24 principal physical commodities that satisfy criteria established by the Index Provider. The commodities included in the S&P GSCI would be weighted, on a production basis, to reflect the relative significance (in the view of the Index Provider) of those commodities to the world economy. The referenced commodities within the S&P GSCI Agricultural and Livestock Spot Index (''S&P GSCI–AL'') and the S&P GSCI Industrial Metals Spot Index (''S&P GSCI–IN'') would each receive weightings that differ from the weightings they receive in the broader S&P GSCI.[28] The value of the S&P GSCI has been normalized (''Normalizing Constant'') such that its hypothetical level on January 2, 1970 was 100.

The S&P GSCI Crude Oil Spot Index (''S&P GSCI–CL''), the S&P GSCI Brent Crude Oil Spot Index (''S&P GSCI–BR''), and the S&P GSCI Natural Gas Spot Index (''S&P GSCI–NG'') are single-commodity sub-indices of the S&P GSCI.[29] The S&P GSCI–AL and the S&P GSCI–IN are sub-indices of the S&P GSCI that comprise related groups of commodities otherwise contained in the broader S&P GSCI. All of the S&P GSCI Commodity Indices are the spot versions of such indices.

Each S&P GSCI Commodity Index would reflect only the daily settlement prices (''Daily Contract Reference Prices'') of commodities futures contracts that are the components of such index (''Designated Contracts'') on each business day. Each S&P GSCI Commodity Index would be based on the daily settlement prices of first nearby contract, except during the five-day ''Roll Period'' during which the ''Roll Contract Expirations'' shift to the next nearby contract and during which the weighting of the first nearby contract is decreased in favor of the next expiry contract 20 percent per day. Immediately following the Roll Period, the next expiry contract would be used for the index until the next following Roll Period. When shifting to a next nearby contract, contract quantities remain consistent, and relative values between the nearby and next nearby contracts could vary. The daily value of the S&P GSCI Commodity Indices, therefore, would be calculated solely based on the commodity production weightings assigned by the Index Provider of each Designated Contract, and of the Daily Contract Reference Prices of the nearby contract expiration of each Designated Contract, and it would not reflect any roll yield.

The quantity of each of the contracts included in the S&P GSCI Commodity Indices would be determined on the basis of a five-year average, referred to as the ''world production average,'' of the production quantity of the underlying commodity, as published by the United Nations Statistical Yearbook, the Industrial Commodity Statistics Yearbook, and other official sources. However, if a commodity is primarily a regional commodity—based on its production, use, pricing, transportation, or other factors—the Index Provider would calculate the weight of that commodity based on regional, rather than world, production data. At present, natural gas is the only commodity the weights of which are calculated on the basis of regional production data, with the relevant region defined as North America.

The Exchange states that a complete and current description of the eligibility criteria, weighting, and calculation methodologies the Index Provider would utilize in selecting commodities and Designated Contracts and their weights for an S&P GSCI Commodity Index can be found in the S&P GSCI Handbook, which is available at: *www.spindices.com/documents/methodologies/methodology-sp-gsci.pdf.*

The Underlying Benchmark of the VIX Fund would be the VIX. The VIX is constructed by CBOE and calculated and published by the Index Provider. The VIX would seek to serve as a measure of the expected volatility of the S&P 500® total return stock index (''S&P 500 Index''). It is an up-to-the-minute market estimate of expected volatility, calculated by using real-time S&P 500 Index option (ticker: SPX) bid/ask quotes. The SPX is the Reference Asset of the VIX. Each business day, the VIX uses SPX options with at least eight days left to expiration and then weights them to yield a constant, 30-day measure of the expected volatility of the S&P 500 Index.

The VIX is based on real-time option prices, which reflect investors' consensus view of future expected stock market volatility. During periods of financial stress, which are often accompanied by steep market declines, SPX options prices—and the VIX—tend to rise. As expectations of large market moves subside, SPX option prices tend to decline, which in turn causes the VIX to decline.

The VIX is quoted in percentage points and translates, roughly, to the expected movement in the S&P 500 Index over the next 30-day period, which is then annualized. The VIX is based on the spot variation of its Reference Asset and, as such, does not

things, perform or supervise the performance of services necessary for the operation and administration of the Funds (other than making investment decisions or providing services provided by other service providers), including accounting and other fund administrative services. As Transfer Agent, State Street would, among other things, provide transfer agent services with respect to the creation and redemption of Creation Units. The Transfer Agent would receive from Authorized Participants creation and redemption orders and deliver acceptances and rejections of such orders to Authorized Participants as well as coordinate the transmission of such orders and instructions among the Sponsor and the Authorized Participants.

[26] The Underlying Benchmarks for all of the Funds other than the VIX Fund are: (1) the S&P GSCI Spot index; (2) the S&P GSCI Agricultural and Livestock Spot index; (3) the S&P GSCI Industrial Metals Spot index; (4) the S&P GSCI Crude Oil Spot index; (5) the S&P GSCI Brent Crude Oil Spot index; and (6) the S&P GSCI Natural Gas Spot index, (collectively, ''S&P GSCI Commodity Indices'').

[27] The Exchange represents that, should the Index Provider become affiliated with the Trust and the Sponsor, an appropriate firewall would be required. *See* Notice, *supra* note 3, 79 FR at 35615, n.31.

[28] The S&P GSCI–AL comprises contracts referencing the following Reference Assets: Corn, Chicago Wheat, Soybeans, Live Cattle, Lean Hogs, Sugar, Cotton, Kansas Wheat, Coffee, Feeder Cattle, and Cocoa. The S&P GSCI–IN comprises contracts referencing the following Reference Assets: LME Copper, Aluminum, Nickel, Zinc, and Lead. The S&P GSCI comprises contracts referencing the Reference Assets of the S&P GSCI–AL and the S&P GSCI–IN, as well as West Texas Intermediate Crude Oil, Brent Crude Oil, Gas Oil, Heating Oil, RBOB Gasoline, Gold, Natural Gas, and Silver.

[29] The S&P GSCI–CL, the S&P GSCI–BR, and the S&P GSCI–NG comprise, respectively, contracts referencing West Texas Intermediate Crude Oil, Brent Crude Oil, and Natural Gas.

incorporate the effects of closing out an expiring contract and establishing a position in the next available contact. Consequently, the VIX does not reflect any roll yield in option contract turnover and is properly viewed as a spot measure of 30-day expiry expected S&P 500 Index volatility measured through SPX price movements. The Exchange states that additional information regarding the VIX can be found at CBOE's Web site at *www.cboe.com/VIX.*

Description of the Funds

As is the case with Paired Class Shares generally, as discussed above, the Trust would issue Shares on behalf of a Fund in offsetting pairs, where one constituent of the pair, the Up Shares, is positively linked to the Fund's Underlying Benchmark and the other constituent, the Down Shares, is negatively linked to the Fund's Underlying Benchmark. Therefore, the Trust would only issue, distribute, maintain, and redeem equal quantities of Up Shares and Down Shares on behalf of a Fund at all times. The Trust would create and redeem Paired Class Shares on behalf of a Fund in Creation Units only for cash. Once created, a Fund's Paired Class Shares would trade independently of each other on the Exchange. As generally described above for all Paired Class Shares, the cash proceeds from the creation of Paired Class Shares by a Fund may be held by a Fund only in Eligible Assets that serve certain functions.[30] Each Fund would invest its assets to preserve its capital while, at the same time, earning an investment return that is consistent with such preservation of capital.

Fund Assets

Each Fund would maintain its Eligible Assets in a separate custody account maintained by the Fund's Custodian that would be segregated from the assets of any other series of the Trust, the Custodian, or any other customer of the Custodian. If, on any date, there is cash on deposit in a Fund's custody account that is not required to make payments or to make distributions to shareholders, all such cash would be either held as cash or invested by the Investment Advisor, acting in accordance with the Investment Advisory Agreement and on behalf of the Fund, in cash bank deposits, Eligible Treasuries, or Eligible Repos.[31]

Each Fund would invest its cash in Eligible Treasuries or Eligible Repos in order to generate income to pay its fees, expenses, and taxes and to generate income to shareholders from cash on deposit in the Fund that would not be immediately needed for other purposes pending a later net income distribution. Each Fund would hold a portion of its assets in Eligible Repos, because these agreements mature and convert to cash within one business day, which would make it possible for the Fund to have sufficient cash available on each business day to be able to effect any redemptions of its Creation Units.

Except on a distribution date on which such proceeds would be needed to effect redemptions or net income distributions or to distribute cash for regular and special distributions, the Investment Advisor, on behalf of the Fund, would reinvest on a daily basis the proceeds received upon the maturity of the Fund's Eligible Treasuries and Eligible Repos in Eligible Assets. The Investment Advisor would also invest in Eligible Assets all of a Fund's cash funds delivered to it in connection with each creation of the Fund's Creation Units. On the liquidation of a Fund, all of the proceeds of the Eligible Treasuries and Eligible Repos held by the Fund would be used to make final cash liquidating payments (less the fees, expenses, and taxes of the Fund not assumed by the Sponsor) to the Fund's shareholders. Upon any redemption of a Fund's Creation Units by an Authorized Participant, the cash of the Fund would be used to pay the proceeds of such redemption to the redeeming Authorized Participant.

Distributions

With respect to the specific distributions applicable to the Funds, as more generally described above for all Paired Class Shares, each Fund would be expected to engage in four types of distributions as of certain distribution dates. The first type of distribution, regular distributions, would occur at regular intervals for each Fund. Regular distributions would generally occur as long as there has been a change in the level of the Underlying Benchmark (and, in the case of the VIX Fund, the Daily Amount) as of the distribution date since the prior distribution date. Secondly, each Fund would expect to make net income distributions on each regular or special distribution date to the shareholders of any class of such Fund whose class Net Investment Income is positive as of such distribution date.

The other two types of distributions would not be expected to occur regularly and are mechanisms intended to protect the interests of investors by providing them with the expected value of their Shares upon specified events. Thus, the third type, special distributions, would occur where the change in the Underlying Benchmark exceeds a specified percentage value since the prior distribution date but before the next regular distribution. The fourth type, corrective distributions, would occur only if the trading price of a class' Shares on the Exchange deviates for a specified length of time over a specified threshold amount from the Class Value per Share of such class.

Regular Distributions. Each Fund would engage in regular distributions on either a monthly or quarterly basis as set forth in the applicable Fund prospectus.[32] After each regular distribution, the applicable Fund would reset its Share Index Factors. An investor receiving distributions in cash could then choose to either do nothing or reinvest all or part of the distribution in the desired class of Shares to gain more economic exposure to the Underlying Benchmark.

An investor receiving distributions in pairs of Shares may: (1) Sell the Shares received for cash and maintain the proceeds in cash; (2) sell only the opposing class of Shares received and maintain proceeds in cash; or (3) sell only the opposing class of Shares received and reinvest the proceeds in the desired class of Shares to gain more economic exposure to the Underlying Benchmark.

Special Distributions. Special distributions would be a measure designed to protect the Funds and the investors in the Funds during periods when the Fund's Underlying Benchmark experiences unexpected

[30] *See supra* note 18 and accompanying text.

[31] Eligible Repos would: (1) be entered into with a seller that is a bank with at least one billion U.S. dollars in assets or a registered securities dealer that is deemed creditworthy by the Fund's investment advisor; (2) terminate the business day following their execution; (3) be denominated in U.S. dollars; and (4) be ''collateralized fully,'' meaning that (a) the value of the assets collateralizing the Eligible Repo (less transaction costs, including loss of interest, that the Fund reasonably could expect to incur if the seller were to default) would be, and during the entire term of the Eligible Repo would remain, at least equal to the resale price payable by the seller under the Eligible Repo, (b) such assets would be held by a custodian bank for the benefit of the Fund during the term of the Eligible Repo, and (c) such assets would consist entirely of United States Treasury Securities.

[32] The VIX Fund and the AccuShares S&P GSCI Natural Gas Spot Fund would engage in monthly regular distributions on the 15th day of each calendar month (or the next following business day if the scheduled regular distribution date is not a business day). Each of the other five Funds would engage in quarterly regular distributions on March 15, June 15, September 15 and December 15 of each year (or the next following business day if the scheduled regular distribution date is not a business day).

degrees of volatility. The Funds would effect a special distribution and a resetting of the Share Index Factors between regular distribution dates where the change in the Underlying Benchmark exceeds a specified percentage value since the prior distribution date, as set forth in the applicable Fund prospectus.[33] A reverse share split may also be executed in conjunction with any special distributions.

Value of Regular and Special Distributions. When the Class Values per Share of the Up Shares and the Down Shares of a Fund differ at the close of a Measuring Period (after adjusting for any net income distribution for such Shares), the Share class with the higher Class Value per Share would be expected to receive a regular or special distribution on that distribution date.

The value of a distribution relating to each of a Fund's Up Shares (where such Shares are valued at their respective Class Values per Share) entitled to a distribution on a distribution date would be equal to the positive amount, if any, of the closing Class Value per Share of the Fund's Up Shares (after adjusting for any net income distribution) less the closing Class Value per Share of the Fund's Down Shares (after adjusting for any net income distribution).

The value of a distribution relating to each of a Fund's Down Shares (where such Shares are valued at their respective Class Values per Share) entitled to a distribution on a distribution date would be equal to the positive amount, if any, of the closing Class Value per Share of the Fund's Down Shares (after adjusting for any net income distribution) less the closing Class Value per Share of the Fund's Up Shares (after adjusting for any net income distribution).

Regular and special distributions would ordinarily be made in the form of cash during the first six months of trading in a Fund's Shares. Thereafter, each Fund would pay all or any part of any regular or special distribution in Paired Class Shares instead of cash where further cash distributions would adversely affect the liquidity of the market for the Fund's Shares[34] or impact the Fund's ability to meet minimum asset size Exchange listing standards.[35] All payments made in Paired Class Shares would be made in equal numbers of Up and Down Shares. To the extent a Share distribution would result in the distribution of fractional Shares, cash in an amount equal to the value of the fractional Shares would be distributed rather than fractional Shares.

Corrective Distributions. Corrective distributions would occur for the Funds after the trading price of a Fund's Shares deviates materially and persistently from Class Value per Share according to fixed thresholds as set forth in the applicable Fund prospectus. Corrective distributions would be a formulaic process that continuously measures for any material deviation between the Class Value per Share of the Shares and the closing trading prices of the Shares as reported on the Exchange. After a specified period of time following a Fund's inception, if the closing trading prices of the Shares of the Fund deviate significantly from their Class Value per Share by a specified amount over a specified period of time, as set forth in the applicable Fund prospectus, the Fund would make a corrective distribution in addition to a regular distribution or special distribution on the next scheduled regular distribution date or special distribution date if previously triggered.[36] In a corrective distribution, each Share (including those to be distributed on the related regular or special distribution date) would be resolved into a risk neutral position comprising an equal number of Up Shares and Down Shares. The corrective distribution would distribute: (1) a number of Down Shares equal to the number of outstanding Up Shares to the Up Shares holders; and (2) a number of Up Shares equal to the number of outstanding Down Shares to the Down Shares holders.

Net Income Distributions. Whenever a Fund engages in a regular or special distribution, such Fund would determine whether any of its classes has a positive Net Investment Income. Shareholders of any class that has a positive Net Investment Income would receive a net income distribution. Net income distributions may occur for any class regardless of whether such class receives a regular or special distribution on that date.

Share Splits. Reverse share splits would be declared to maintain a positive Class Value per Share for either the Up Shares or the Down Shares of a Fund should the Class Value per Share of either class approach zero. Reverse share splits would be expected to occur in the context of special distributions and are expected to be triggered after Class Value per Share declines below a specified dollar threshold as set forth in the applicable Fund prospectus.[37] No other share splits would be expected to occur, although the Sponsor would have the right to declare in its sole discretion a share split, either forward or reverse, pursuant to the Trust Agreement. In the event of a reverse share split, the Share Index Factors and the per-Share calculations for Net Investment Income would be adjusted to reflect the split to maintain continuity in tracking the Fund's Underlying Benchmark.

Notification. Each Fund engaging in a regular distribution, a special distribution, a corrective distribution, or a net income distribution would provide at least three business days' advance notice (or longer advance notice as may be required by the Exchange)[38] of such an event. Each Fund engaging in a share split would provide at least ten calendar days' advance notice (or longer advance notice as may be required by the Exchange)[39] of such an event. In each instance, the Sponsor would notify the Exchange, and post a notice of such event and its details on the Sponsor's Web site (*www.AccuShares.com*).

With respect to regular distributions, the information provided would consist of the schedule of distributions and associated distribution dates, and a notification, as of the record date for such regular distribution, on the Sponsor's Web site as to whether or not the regular distribution would occur. For regular distributions that occur on schedule, the Sponsor would cause a press release to be issued identifying the receiving class, the amount of cash, the amount of Paired Class Shares (if any), and any other information the Sponsor deems relevant regarding the distribution and post such information on the Sponsor's Web site. This information would also be contained in

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[33] The percentage value for special distributions for each of the Funds would be 75%. *See* Notice, *supra* note 3, 79 FR at 35619, n.41.

[34] The Fund would engage in distributions of Paired Class Shares to maintain a net asset value sufficient to meet the net asset value expectations of certain institutional shareholders that condition their investment in exchange-traded products to only those products having more than a minimum amount of net assets. According to the Exchange, Paired Class Share distributions would have the effect of preserving a Fund's net assets (aggregate Class Values) to attract and retain these institutional investors and thereby increase the liquidity of the market for a Fund's Shares. *See id.* at 35619, n.42.

[35] *See* proposed NASDAQ Rule 5713(f)(ii)(A)(iii).

[36] The corrective distribution threshold for the VIX Fund would be a 10.0% deviation for three consecutive business days. The corrective distribution threshold for the AccuShares S&P GSCI Natural Gas Spot Fund would be a 7.5% deviation for three consecutive business days. The corrective distribution threshold for each of the other five Funds would be a 5.0% deviation over three consecutive business days. *See* Notice, *supra* note 3, 79 FR at 35620, n.44.

[37] The specified dollar threshold for each Fund would be $4.00. *See id.* at 35620, n.45.

[38] The Exchange states that it may determine that a longer notice is advisable in certain circumstances (*e.g.,* an extended, or unexpected, market break).

[39] *See id.*

the Fund's quarterly and annual reports on Forms 10–Q and 10–K and annual reports to shareholders.

With respect to special distributions, corrective distributions, and share splits, the information provided would include the relevant ex-, record, and payment dates for each such event and relevant data concerning each such event. These events would also be reported in press releases, on the Sponsor's Web site, and in current reports on Form 8–K as material events, as well as in the Fund's periodic reports. In addition, notice of net income distributions for each class of a Fund, if any, would also be included in the notifications of regular, special, and corrective distributions.

Additional details regarding the Trust, the Funds, and the Shares can be found in the Notice.[40]

II. Proceedings to Determine Whether to Approve or Disapprove SR–NASDAQ–2014–065 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[41] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[42] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.''[43]

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[44]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by October 15, 2014. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 29, 2014.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[45] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission requests that commenters consider the following:

1. As described above, the Exchange represents in the proposed rule change that Paired Class Shares would engage in three different types of distributions: regular, special, and corrective. According to the Exchange, market expectation of these distributions would cause the trading prices of Paired Class Shares to experience less-pronounced conditions of premium or discount to Class Value per Share. Further, according to the Exchange, corrective distributions would eliminate then-existing premiums or discounts and would prevent persistent and material premium and discount conditions for Paired Class Shares from becoming locked. What are commenters' views on the effect that the distributions would have on premiums and discounts between the trading price of the Paired Class Shares and their respective Class Value per Share? Do commenters agree with the Exchange's assertions? Why or why not?

2. What are commenters' views on whether retail investors and other market participants would be able to understand the Funds' redemption mechanics and the types and timing of distributions in which the Funds would engage? For example, do commenters believe that retail investors in one class of the two classes of shares could be reasonably expected to understand the practical implications of receiving, as a result of certain distributions, shares of the opposing class, which would leave the investor with an equal number of Up Shares and Down Shares, even though they started with only one class of the two classes of shares? Do commenters believe that retail investors could be reasonably expected to understand the actions they would have to take following such a distribution to reestablish the exposure to the index that they had prior to the distribution?

3. In the proposed rule change, the Exchange represents that each fund issuing Paired Class Shares would periodically reset its exposure to its Underlying Benchmark to avoid depleting all of the capital of one class of shares and to avoid ''leverage drift.'' What are commenters' views on whether retail investors and other market participants would be able to understand the effect of these ''resets'' on their investment in the Funds?

4. With respect to the trading of Paired Class Shares on the Exchange, do commenters believe that the Exchange's rules governing sales practices are adequately designed to ensure the suitability of recommendations regarding the Shares? Why or why not? If not, should the Exchange's rules governing sales practices be enhanced? If so, in what ways?

5. Although each of the Funds would be based on an index, none of the Funds would actually invest its portfolio assets in an effort to match or exceed the performance of its underlying index. Instead, each Fund would hold short-term government securities (and repurchase agreements on those securities) and would allocate the value of its portfolio between holders of Up Shares and holders of Down Shares, depending on changes in the underlying index. What are commenters' views with respect to whether retail investors will understand this aspect of the Funds, and what are commenters' views about whether it is appropriate for an exchange-traded product to be structured in this way?

Comments may be submitted by any of the following methods:

[40] *See supra* note 3.

[41] 15 U.S.C. 78s(b)(2)(B).

[42] *Id.*

[43] 15 U.S.C. 78f(b)(5).

[44] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[45] *See supra* note 3.

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.* Please include File Number SR–NASDAQ–2014–065 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 Numbers SR–NASDAQ–2014–065. 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 these filings also will be available for inspection and copying at the principal office of the Exchange. 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–2014–065 and should be submitted on or before October 15, 2014. Rebuttal comments should be submitted by October 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22672 Filed 9–23–14; 8:45 am]

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[46] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73143; File No. SR–OCC–2014–16]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Apply Enhanced Post-Trade Price Reasonableness Checks on Confirmed Trades in Standardized Options and Futures Options To Increase the Likelihood That Erroneous Trades Will Be Identified and Voided

September 18, 2014.

On July 21, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2014–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on August 5, 2014.[3] The Commission received one comment on the proposal.[4] On August 20, 2014, OCC filed Amendment No. 1 to the proposal.[5] The Commission is publishing this notice to solicit comments on Amendment No. 1 and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

I. Description of the Proposal

OCC proposed to add an interpretation and policy concerning its administration of existing Article VI, Section 7(c) of the By-Laws and to implement price reasonableness checks in connection with the reporting of confirmed trades in standardized options and futures options to OCC by an exchange under Article VI, Section 7 and Rule 401. Article VI, Section 7(c) provides that an exchange may instruct OCC to disregard a confirmed trade previously reported to OCC for clearance and settlement under certain circumstances.[6] One such circumstance is a determination that ''new or revised trade information was required to properly clear the transaction.'' To promote OCC's ability to protect itself and clearing members from the negative effects of clearing trades in standardized options and futures options that may contain erroneous premium information, OCC would apply to accepted trades a premium price threshold triggering further scrutiny of trades that exceed it.

Background

According to OCC, the Board of Directors and Risk Committee have been evaluating risk controls with respect to trades priced significantly away from current market prices and the risks they present to OCC.[7] OCC stated that it anticipates the proposed price reasonableness review process would be put in place while it also develops other post-trade risk controls for potential implementation.

Post-Trade Price Validation Process

According to OCC, earlier this year, a trade data entry parameter in OCC's systems that does not allow OCC to accept a trade having a premium price of more than $9,999.99 per contract prevented OCC from accepting erroneous trades that resulted from a trading algorithm error of a customer of a clearing member. If the systems parameter had not prevented OCC from accepting the trades, the settlement obligation for the clearing member for these trades alone could have exceeded $800 million. This amount would have been in addition to any other settlement obligation of the clearing member.

In light of the incident, and to promote the protection of OCC and clearing members from erroneous trades, OCC's Risk Committee directed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Securities Exchange Act Release No. 32718 (July 30, 2014), 79 FR 45527 (August 5, 2014) (SR–OCC–2014–16) (''Notice'').

[4] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Ellen Greene, Vice President, Securities Industry and Financial Markets Association, dated August 21, 2014. The commenter strongly agreed with OCC's proposal and believed that it is appropriate that the Commission approve the proposal. OCC did not respond to the comment.

[5] In Amendment No. 1, OCC amended the proposal to further clarify the criteria OCC will use to identify trades for referral to exchanges for evaluation under the obvious error or other applicable exchange rules. Specifically, OCC clarified that it would include a ''5% intrinsic value threshold,'' as described more fully below, to identify trades for referral to exchanges. OCC stated that it would review this threshold on a quarterly basis for continued adequacy and any adjustments to the threshold will be the subject of rule filing with the Commission.

[6] *See* Article VI, Section 7(c); *see also* Exchange Act Release No. 46734 (October 28, 2002), 67 FR 67229 (November 4, 2002) (SR–OCC–2002–18) (approving amendments to OCC's By-Laws and Rules supporting the transition to near real-time reporting of matched trade information, including amendments to Article VI, Section 7 to allow instructions to OCC under certain conditions to disregard a matched trade).

[7] *See e.g.,* OCC Press Release, OCC and The U.S. Options Exchanges Adopt New Pre- and Post-Trade Risk Control Principles (May 21, 2014), *http://www.theocc.com/about/press/releases/2014/05_21.jsp.* OCC stated that it intends that these principles will be the subject of additional proposed rule changes.