SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74580; File No. SR–NASDAQ–2015–025]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 5950

March 25, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. 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

NASDAQ proposes to amend the Market Quality Program (''MQP'' or ''Program'') fee (''MQP Fee'') in Rule 5950, entitled Market Quality Program.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.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 Exchange 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 this proposal is to amend the MQP Fee in section (b)(2) of Rule 5950. No other changes to the MQP are proposed.

The MQP enables market makers that voluntarily commit to and do in fact enhance the market quality, in terms of quoted spreads and liquidity, of certain securities listed on the Exchange to qualify for a fee credit. These market makers are eligible for a fee credit only to the extent that they maintain stringent quoting and liquidity standards set forth in the Program. The MQP is a one year pilot, during which time the Exchange will periodically provide information to the Commission about market quality in respect of the MQP. NASDAQ believes that the MQP will be beneficial to issuers, investors and other market participants, and to the economy in general by significantly enhancing the quality of the market and trading in listed securities.

The Commission approved the MQP as a pilot program.[3] The pilot program has not commenced. At this time, there are no MQP Companies [4] or MQP Market Makers [5] in the Program.[6] During this interim period, the Exchange is proposing to reduce the MQP Fee to enhance the competitive nature of the Program.[7]

Current Rule 5950 discusses the Market Quality Program. MQP Securities consist of ETF securities issued by an MQP Company and listed on the Exchange pursuant to NASDAQ Rule 5705.[8] In addition to the standard (non-MQP) Exchange listing fee applicable to an MQP Security set forth in the NASDAQ Rule 5000 Series an MQP Company may [sic] incur a fee known as an MQP Fee, on behalf of an MQP Security, to participate in the Program. The MQP Fee will be paid by a Sponsors [sic] associated with an MQP Company.[9] The MQP Fee will be used for the purpose of incentivizing one or more MQP Market Makers to enhance the market quality of an MQP Security. Subject to the conditions set forth in the proposed [sic] rule, this incentive payment will be credited (''MQP Credit'') pro rata to one or more MQP Market Makers that meet quoting and trading requirements in the MQP Security and thereby make a high-quality market in the MQP Security.[10]

Currently, per Rule 5950(b)(2), an MQP Company participating in the MQP will incur an annual basic MQP Fee of $50,000 per MQP Security (''basic MQP Fee''), which must be paid to the Exchange prospectively each quarter. An MQP Company may also, on an annual basis, voluntarily select to incur

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 69195 (March 20, 2013), 78 FR 18393 (March 26, 2013) (SR–NASDAQ–2012–137) (order granting approval of Market Quality Program) (SR–NASDAQ–2012–137) (''MQP order''). *See also* Securities Exchange Act Release No. 68515 (December 21, 2012), 77 FR 77141 (December 31, 2012) (SR–NASDAQ–2012–137) (notice of filing Market Quality Program as pilot, with extensive description of program) (''MQP proposal''). In the MQP proposal the Exchange noted the need for the MQP and positive results of such programs, the extensive positive academic studies, and the success of the thirteen year old NASDAQ First North market incentive program that is similar in nature to the MQP.

[4] The term ''MQP Company'' is defined in Rule 5950(e)(5) as the trust or company housing the Exchange Traded Fund (''ETF'') or, if the ETF is not a series of a trust or company, then the Exchange Traded Fund itself. MQP Fees for MQP Securities will be paid by the Sponsors associated with the MQP Companies. The term ''Sponsor'' means the registered investment adviser that provides investment management services to an MQP Company or any of such adviser's parents or subsidiaries. The term ''Exchange Traded Fund'' is defined in Rule 5950(e)(2) includes [sic] Portfolio Depository Receipts and Index Fund Shares, which are defined in NASDAQ Rule 5705; the Exchange believes, as noted in the MQP proposal, that predominantly ETFs will be listed on the MQP.

[5] The term ''Market Maker'' is defined in Rule 5005(a)(24) as a dealer that, with respect to a security, holds itself out (by entering quotations in the NASDAQ Market Center) as being willing to buy and sell such security for its own account on a regular and continuous basis and that is registered as such.

[6] Section (f) of Rule 5950 states, in relevant part, that the MQP will be effective for a one year pilot period that will commence when the Program is implemented by Exchange acceptance of an MQP Company, on behalf of an MQP Security, and relevant MQP Market Maker into the Program.

[7] *See, e.g.,* Securities Exchange Act Release No. 69706 (June 6, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEArca–2013–34) (order granting approval of NYSE Arca incentive pilot program). *See also* Securities Exchange Act Release No. 66307 (February 2, 2012), 77 FR 6608 (February 8, 2012) (SR–BATS–2011–051) (order granting approval of BATS Competitive Liquidity Provider program).

[8] The term ''MQP Security'' is defined in Rule 5950(e)(1) as an ETF security issued by an MQP Company that meets all of the requirements to be listed on NASDAQ pursuant to Rule 5705.

[9] *See* Rule 5950(b)(2)(C)(i). The term ''Sponsor'' is defined in Rule 5950(e)(5) to mean the registered investment adviser that provides investment management services to an MQP Company or any of the adviser's parents or subsidiaries.

[10] *See* Rule 5950(c). For an MQP Market Maker to be eligible to receive MQP Credit when making markets in MQP Securities, the MQP Market Maker must, in addition to meeting applicable Market Maker obligations pursuant to Rule 4613, on a monthly basis meet or exceed section (c) quoting and trading requirements that include, in relevant part: (i) For at least 25% of the time when quotes can be entered in the Regular Market Session as averaged over the course of a month, must maintain: a) at least 500 shares of attributable, displayed quotes or orders at the NBBO or better on the bid side of an MQP Security; and b) at least 500 shares of attributable, displayed quotes or orders at the NBBO or better on the offer side of an MQP Security; and (ii) For at least 90% of the time when quotes can be entered in the Regular Market Session as averaged over the course of a month, must maintain: a) at least 2,500 shares of attributable, displayed posted liquidity on the Nasdaq Market Center that are priced no wider than 2% away from the NBBO on the bid side of an MQP Security; and b) at least 2,500 shares of attributable, displayed posted liquidity on the Nasdaq Market Center that are priced no wider than 2% away from the NBBO on the offer side of an MQP Security.

an annual supplemental MQP Fee per MQP Security (''supplemental MQP Fee''), which must be paid to the Exchange prospectively each quarter. Currently, the basic MQP Fee and supplemental MQP Fee cannot exceed $100,000 per year when combined. The amount of the supplemental MQP Fee, if any, for each MQP Security will be determined by the MQP Company initially and will remain the same for one year. The Exchange will provide notification on its Web site regarding the amount, if any, of any supplemental MQP Fee determined by an MQP Company per MQP Security.[11]

The Exchange proposes to amend the basic MQP Fee and the supplemental MQP Fee. Specifically, the Exchange proposes to amend the MQP Fee as follows: the annual basic MQP fee will be $35,000; and the basic MQP Fee and supplemental MQP Fee when combined will not exceed $70,000. Thus, the supplemental MQP Fee as proposed may not be greater than $35,000 in addition to the basic MQP Fee. The 1:2 relationship between the basic and supplemental fee is preserved. That is, where currently the basic MQP Fee is $50,000 and the basic MQP Fee and supplemental MQP Fee when combined may not exceed $100,000 (twice the basic MQP Fee), the proposed basic MQP Fee is $35,000 and the basic MQP Fee and supplemental MQP Fee when combined may not exceed $70,000 (also twice the basic MQP Fee). Other than the MQP Fee, no other changes are proposed in this filing.

The Exchange has discussed the structure and implementation of the Program with potential MQP Companies and MQP Market Makers. The Exchange believes that the proposal will help to incentivize MQP Companies to list ETF products, and MQP Market Makers to make quality markets through the MQP Program. The Exchange believes that its proposal, which would encourage Program implementation, will be beneficial to the market and market participants.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.[12] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that its proposal to decrease the MQP Fee is wholly consistent with the Act and promotes the implementation and use of the MQP.

The goal of the MQP—to incentivize members to make high-quality, liquid markets—supports the primary goal of the Act to promote the development of a resilient and efficient national market system. The primary goal of the Act includes multiple policies such as price discovery, order interaction, and competition among orders and markets. The MQP as amended promotes all of these policies and will enhance quote competition, improve NASDAQ liquidity, support the quality of price discovery, promote market transparency and increase competition for listings and trade executions while reducing spreads and transaction costs. Maintaining and increasing liquidity in exchange-listed securities executed on a registered exchange will help raise investors' confidence in the fairness of the market and their transactions. Improving liquidity in this manner is particularly important with respect to ETFs and low-volume securities, as noted by the Joint CFTC/SEC Advisory Commission on Emerging Regulatory Issues.[14]

Each aspect of the MQP as amended adheres to and supports the Act. The Program promotes the equitable allocation of fees and dues among issuers. The MQP is completely voluntary in that it will provide an additional means by which issuers may relate to the Exchange without modifying the existing listing options. Issuers can supplement the standard listing fees (which have already been determined to be consistent with the Act) with those of the MQP (which are consistent with the Act as well). While the MQP will result in higher overall fees for issuers that choose to participate, the Exchange notes that the MQP Fee (both basic and supplemental) for participation in the Program is decidedly lower and would enable the issuers to receive significant benefits for participating, including greater liquidity, and lower transaction costs for their investors.[15]

The MQP as amended also represents an equitable allocation of fees and dues among Market Makers. Again, the MQP is completely voluntary with respect to Market Maker participation in that it will provide an additional means by which members may qualify for a credit, without eliminating any of the existing means of qualifying for incentives on the Exchange. Currently, NASDAQ and other exchanges use multiple fee arrangements to incentivize Market Makers to maintain high quality markets or to improve the quality of executions, including various payment for order flow arrangements, liquidity provider credits, and NASDAQ's Investor Support Program (set forth in NASDAQ Rule 7014). Market Makers that choose to undertake increased burdens pursuant to the MQP will be rewarded with increased credits; those that do not undertake such burdens will receive no added benefit. As with issuers, Market Makers that choose to participate in the MQP will be permitted to withdraw from it after an initial commitment if they determine that the burdens imposed by the MQP outweigh the benefits provided.

Additionally, the MQP as amended reflects an equitable allocation of MQP Credits among Market Makers that choose to participate and fulfill the obligations imposed by the rule. If one Market Maker fulfills those obligations, the MQP Credit will be distributed by NASDAQ to that Market Maker out of the General Fund; and if multiple Market Makers satisfy the standard, the MQP Credit will be distributed pro rata among them. In other words, all of the

[11] In addition to the supplemental MQP fee, the Exchange will include on its Web site the following information: (i) The identities of the MQP Companies, MQP Securities, and MQP Market Makers accepted into the MQP; (ii) any limits the Exchange may impose on the number of MQP Securities per MQP Company or MQP Market Makers per MQP Security in the MQP; (iii) any notification received by the Exchange that an MQP Company, on behalf of an MQP Security, or MQP Market Maker intends to withdraw from the MQP; and (iv) the dates that an MQP Company, on behalf of an MQP Security, commences participation in and is withdrawn or terminated from the MQP. Furthermore, an MQP Company will be required to disclose on a product-specific Web site that the MQP Security is participating in the MQP and will be required to provide a link on that Web site to the Exchange's MQP Web site.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Recommendations Regarding Regulatory Responses To The Market Events Of May 6, 2010, February 18, 2011 (Recommendation that the SEC evaluate whether incentives or regulations can be developed to encourage persons who engage in market making strategies to regularly provide buy and sell quotations that are ''reasonably related to the market.''). Available at *http://www.sec.gov/spotlight/sec-cftcjointcommittee/021811-report.pdf*.

[15] Additionally, issuers will have the ability to withdraw from the Program after an initial commitment in the event they determine that participation is not beneficial. In that case, the withdrawing issuers will automatically revert to the already-approved fee schedule applicable to the market tier in which their shares are listed.

benefit of the MQP Credits will flow to high-performing Market Makers, provided that at least one Market Maker fulfills the obligations under the proposed rule.

The MQP as amended is designed to avoid unfair discrimination among Market Makers and issuers. The proposed rule contains objective, measurable (universal) standards that NASDAQ will apply with care. These standards will be applied equally to ensure that similarly situated parties are treated similarly. This is equally true for inclusion of issuers and Market Makers, withdrawal of issuers and Market Makers, and termination of eligibility for the MQP. The standards are carefully constructed to protect the rights of all parties wishing to participate in the Program by providing notice of requirements and a description of the selection process. NASDAQ will apply these standards with the same care and experience with which it applies the many similar rules and standards in NASDAQ's rule manuals. The MQP Fee as amended and the credit to Market Makers will be applied uniformly to all in the Program that maintain Program standards.

NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees and program offerings to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that all aspects of the proposed rule change reflect this competitive environment because the MQP is designed to increase the credits provided to members that enhance NASDAQ's market quality.[16]

The proposal to lower the MQP Fee is commensurate with the goals of the Act, in compliance with the Act, and raises no new issues that have not already been discussed. The proposal is non-controversial in nature.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, NASDAQ believes that its proposal is pro-competitive in that it will incentivize the use of the MQP and increase competition in both the listings market and in the transaction services market. This proposal, like the MQP, will promote competition in the listings market by advancing NASDAQ's reputation as an exchange that works tirelessly to develop a better market for all issuers, and for partnering with issuers to improve the quality of trading on NASDAQ. In fact, this proposal, and the MQP itself, is a response to the competition provided by other markets that have developed competing programs, including NYSE Arca and BATS.

The MQP as amended promotes competition in the transaction services market by creating incentives for market makers to make better quality markets. As market makers strive to attain the quality standards established by the MQP, the quality of NASDAQ's quotes will improve. This, in turn, will attract more liquidity to NASDAQ and further improve the quality of trading of MQP stocks. Market quality and liquidity is paramount to NASDAQ, as also to other exchanges. As discussed, competing markets have created incentives of their own to improve the quality of their markets and to attract liquidity to their markets.

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

No written comments were either solicited or received.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[17] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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*. Please include File Number SR–NASDAQ–2015–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–025. 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 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–2015–025 and should be submitted on or before April 21, 2015.

[16] NASDAQ notes that, as discussed, the proposed paid for market making system has been used successfully for years on NASDAQ Nordic's First North market and has been beneficial to market participants including investors and listing companies (issuers) that have experienced market quality and liquidity with narrowed spreads.

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07260 Filed 3–30–15; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–335, OMB Control No. 3235–0381]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form 40–F.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 40–F (17 CFR 249.240f) is used by certain Canadian issuers to register a class of securities pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934 (''Exchange Act'')(15 U.S.C. 78*l*) or as an annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m(a) or 78o(d)). The information required in the Form 40–F is used by investors in making investment decisions with respect to the securities of such Canadian companies. We estimate that Form 40–F takes approximately 429.93 hours per response and is filed by approximately 160 respondents. We estimate that 25% of the 429.93 hours per response (107.48 hours) is prepared by the issuer for a total reporting burden of 17,197 (107.48 hours per response × 160 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 25, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–07253 Filed 3–30–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31511; File No. 812–14346]

ETFS Trust and ETF Securities Advisors, LLC; Notice of Application

March 25, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements with Wholly-Owned Sub-Advisers (as defined below) and non-affiliated sub-advisers without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: ETFS Trust (the ''Trust'') and ETF Securities Advisors LLC (the ''Adviser'').

DATES: *Filing Dates:* The application was filed on August 13, 2014 and amended on December 2, 2014 and February 12, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 17, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, ETFS Trust, 48 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Delaware statutory trust and is registered with the Commission as an open-end management investment company under the Act. The Trust currently offers four series of shares and may offer additional series of shares in the future (each, a ''Fund'' and collectively the ''Funds''),[1] each with its own distinct investment objective, policy and restrictions. Each Fund will operate as an exchange-traded fund.[2] ETF Securities is a Delaware limited liability company and is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'').

2. Applicants request an order to permit the Adviser,[3] subject to the

[1] Currently the Trust consists of the following Funds: ETFS Zacks Earnings Large-Cap U.S. Index Fund, ETFS Zacks Earnings Small-Cap U.S. Index Fund, ETFS Diversified-Factor Large Cap U.S. Index Fund, and the ETFS Diversified-Factor Developed Europe Index Fund (the ''Initial Fund(s)'').

[2] Future Funds may be operated as a master-feeder structure pursuant to section 12(d)(1)(E) of the Act. In such a structure, certain Funds (each, a ''Feeder Fund'') may invest substantially all of their assets in a Fund (a ''Master Fund'') pursuant to section 12(d)(1)(E) of the Act. No Feeder Fund will engage any sub-advisers other than through approving the engagement of one or more of the Master Fund's sub-advisers.

[3] The term ''Adviser'' includes (1) ETF Securities, and (2) any entity controlling, controlled by or under common control with, ETF Securities or its successors that serves as investment adviser to the Funds. For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.