

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78521; File No. SR-NYSEArca-2016-108]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect a Change in the Permitted Size of a Basket Applicable to Shares of ETFS Physical Silver Shares Issued by the ETFS Silver Trust

August 9, 2016.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on July 27, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change in the permitted size of a “Basket” applicable to shares of ETFS Physical Silver Shares (“Fund”) issued by the ETFS Silver Trust. The Fund is currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.201. The proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

##### 1. Purpose

The Commission has approved a proposed rule change relating to listing and trading on the Exchange of shares (“Shares”) of the Fund under NYSE Arca Equities Rule 8.201, which governs the listing and trading of Commodity-Based Trust Shares.<sup>4</sup> The Shares are offered by ETFS Silver Trust (the “Trust”).<sup>5</sup> The Shares represent units of fractional undivided beneficial interest in and ownership of the Trust. The investment objective of the Trust is for the Shares to reflect the performance of the price of silver bullion, less the Trust’s expenses.<sup>6</sup> ETF Securities USA LLC is the sponsor of the Trust (“Sponsor”), The Bank of New York Mellon is the trustee of the Trust and HSBC Bank plc. is the custodian of the Trust. The Fund’s Shares are currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.201.

As described in the Prior Order, issuances of Shares will be made only in “Baskets” of 100,000 Shares or multiples thereof. The Exchange proposes to eliminate the representation in the Prior Order regarding the size of a Basket. Going forward, the size of a Basket will be no greater than 100,000 Shares and the size of a Basket will be subject to change, but always equal to or

<sup>4</sup> Commodity-Based Trust Shares are securities issued by a trust that represent investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

<sup>5</sup> The Trust is registered under the Securities Act of 1933 (“1933 Act”). See Post-Effective Amendment No. 1 on Form S-3 under the 1933 Act for the ETFS Silver Trust, filed with the Commission on August 8, 2014 (No. 333-195514) (“Registration Statement”).

<sup>6</sup> The Commission approved listing and trading of Shares of the Fund on NYSE Arca in Securities Exchange Act Release No. 59781 (April 14, 2009), 74 FR 18771 (April 24, 2009) (SR-NYSEArca-2009-28) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Listing and Trading of Shares of the ETFS Silver Trust) (“Prior Order”); See also Securities Exchange Act Release Nos. 72847 (August 14, 2014), 79 FR 49350 (August 20, 2014) (SR-NYSEArca-2014-88) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change (1) to Reflect a Change to the Value Used by the iShares Silver Trust, ETFS Silver Trust, ETFS White Metals Basket Trust and ETFS Precious Metals Basket Trust with Respect to Calculation of the Net Asset Value of Shares of each Trust; and (2) to Reflect a Change to the Underlying Benchmark for ProShares Ultra Silver and ProShares UltraShort Silver) (“First Prior Notice”); 77830 (May 13, 2016), 81 FR 31671 (May 19, 2016) (SR-NYSEArca-2016-72) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes to Procedures Regarding Establishing the LBMA Silver Price) (“Second Prior Notice”).

less than 100,000 Shares.<sup>7</sup> The Fund currently plans to change the size of a Basket to 50,000 Shares.<sup>8</sup> The Exchange believes that the change to the size of a Basket will not adversely impact investors or Exchange trading. In addition, a reduction in the size of a Basket may provide potential benefits to investors by facilitating additional creation and redemption activity in the Shares, thereby potentially resulting in increased secondary market trading activity, tighter bid/ask spreads and narrower premiums or discounts to NAV.<sup>9</sup>

The Sponsor represents that the proposed change to provide that the size of a Basket will be no greater than 100,000 Shares and subject to change, but always equal to or less than 100,000 Shares, as well as to reduce the Basket size to 50,000 Shares, as described above, is consistent with the Fund’s investment objective, and will further assist the Sponsor to achieve such investment objective. Except for the change noted above, all other representations made in the Prior Order, the First Prior Notice and the Second Prior Notice remain unchanged.<sup>10</sup> The Fund and the Shares will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.201.

The Sponsor represents that the investment objective of the Fund is not changing.

The Sponsor has represented to the Exchange that it will advise the

<sup>7</sup> The Exchange notes that the Commission has approved the listing and trading of other issues of exchange-traded products for which the size of a “Creation Unit” is subject to change. See e.g., Securities Exchange Act Release Nos. 77522 (April 5, 2016), 81 FR 21420 (April 11, 2016) (SR-NYSEArca-2015-125) (order approving Exchange listing and trading of Shares of the of RiverFront Dynamic Unconstrained Income ETF and RiverFront Dynamic Core Income ETF under NYSE Arca Equities Rule 8.600); 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (order approving listing and trading of shares of the Guggenheim Total Return Bond ETF under NYSE Arca Equities Rule 8.600).

<sup>8</sup> The change to size of a Basket will be effective upon filing with the Commission of an amendment to the Trust’s Registration Statement filed pursuant to Rule 424(b)(3) under the 1933 Act, and shareholders will be notified of such change by means of such amendment.

<sup>9</sup> The Exchange notes that the Commission has approved the listing and trading of other issues of exchange-traded products that have applied a minimum “Creation Unit” size of 50,000 shares. See, e.g., Securities Exchange Act Release Nos. 65458 (September 30, 2011), 76 FR 62112 (October 6, 2011) (SR-NYSEArca-2011-54) (order approving listing and trading of WisdomTree Dreyfus Australia and New Zealand Debt Fund); 66112 (January 5, 2012), 77 FR 1761 (January 11, 2012) (SR-NYSEArca-2011-80) (order approving listing and trading of Rockledge SectorSAM ETF).

<sup>10</sup> See note 6, *supra*. All terms referenced but not defined herein are defined in the First Prior Notice.

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

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

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

Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Except for the changes noted herein, all other facts presented and representations made in the Rule 19b-4 filing underlying the Prior Order, the First Prior Notice and the Second Prior Notice remain unchanged.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>11</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that providing for a Basket size of no greater than 100,000 Shares (with the size of a Basket subject to change, but always equal to or less than 100,000 Shares), and changing the Basket size to 50,000 Shares, will not adversely impact investors or Exchange trading. In addition, a reduction in the size of a Basket may provide potential benefits to investors by facilitating additional creation and redemption activity in the Shares, thereby potentially resulting in increased secondary market trading activity, tighter bid/ask spreads and narrower premiums or discounts to NAV.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes the proposed rule change, by providing that the size of a Basket is subject to change, but always equal to or less than 100,000 Shares, will provide the Fund with additional flexibility in administering the creation and redemption of Shares, which will enhance competition among issues of Commodity-Based Trust Shares.

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

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

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because a reduction in the size of a Basket may provide potential benefits to investors by facilitating additional creation and redemption activity in the Shares, thereby potentially resulting in increased secondary market trading activity, tighter bid/ask spreads and narrower premiums or discounts to NAV. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>15</sup> of the Act to determine whether the proposed rule

change 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2016-108 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2016-108. 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-NYSEArca-2016-108 and should be submitted on or before September 6, 2016.

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Robert W. Errett,**  
Deputy Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78508; File No. SR-C2-2016-016]

**Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule To Amend the Fees Schedule**

August 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 1, 2016, C2 Options Exchange, Incorporated (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change**

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.c2exchange.com/Legal/>), at the Exchange’s Office of the Secretary, 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 Exchange proposes to amend its Fees Schedule. Specifically, the Exchange proposes to establish a fee scale for the purchase of Market Maker Quoting and Order Bandwidth Packets (“Bandwidth Packets”), provide for an allotment scale of CMI CAS Servers, and adopt a fee for extra CMI CAS Servers.

The Exchange first proposes to adopt a fee scale for Bandwidth Packets. Particularly, the Exchange proposes to provide that the first through ninth Bandwidth Packets obtained by a Trading Permit Holder (“TPH”) would cost \$1,000 per packet per month, the tenth through fourteenth Bandwidth Packets obtained by that TPH would cost \$500 per packet per month, and the fifteenth and each additional Bandwidth Packet obtained by that TPH would cost \$250 per packet per month. The Exchange believes the proposed fee scale will encourage Market Makers to purchase additional Bandwidth Packets which will allow them to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants.

The Exchange next proposes to amend its Fees Schedule with respect to Connectivity Charges. By way of background, in order to connect to CBOE Command, which allows a TPH to trade on the C2 System, a TPH must connect via either a CMI or FIX interface (depending on the configuration of the TPH’s own systems). For TPHs that connect via a CMI interface, they must use CMI CAS Servers. Currently each TPH is provided one CAS Server plus access to a pool of shared backup CAS Servers. In order to ensure that a CAS Server is not overburdened by quoting activity for Market Makers, the Exchange proposes to allot each Market Maker a certain number of CASs (in addition to the shared backups) based on the amount of quoting bandwidth that they have. Quoting Bandwidth would be determined by the number of Bandwidth Packets the TPH holds in addition to 5 times the number of Market Maker Trading Permits it holds.<sup>3</sup>

<sup>3</sup> The Exchange notes that a C2 Market Maker Quoting and Order Entry Bandwidth Packet is equivalent to 1/5th of a Market Maker Trading Permit. As such, each Market-Maker Trading Permit a TPH holds is equivalent to 5 Quoting and Order Entry Bandwidth Packet for purposes of bandwidth. Therefore, if a TPH has 2 Market Maker Trading Permits and 16 Quoting and Order Entry Bandwidth Packets, the TPH has an equivalent of 26 Bandwidth Packets. The Exchange proposes to

Additionally, the Exchange will aggregate the Market Maker Trading Permits and Market Maker Quoting and Order Entry Bandwidth Packets from affiliated TPHs (TPHs with at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A) for purposes of determining the number of Trading Permits and Market Maker Quoting and Order Entry Bandwidth Packets a TPH holds. Particularly, the Exchange proposes to add a chart listing the amounts of equivalent Bandwidth Packets and corresponding CAS Servers:

Total bandwidth packets equivalency	CAS Servers
1–25 .....	1 + shared backup.
26–50 .....	2 + shared backup.
51–75 .....	3 + shared backup.
76–100 .....	4 + shared backup.
100+ .....	5 + shared backup.

Next, the Exchange proposes to provide that if a Market Maker wishes to connect via an extra CMI CAS Server (in order to segregate TPH users for business or availability purposes) beyond the TPH’s allotted number of CMI CAS Servers (described above), that TPH will be assessed a fee of \$2,000 per month for each extra CMI CAS Server. The purpose of this proposed change is to manage the allotment of CMI CAS Servers in a fair manner and to prevent the Exchange from being required to expend large amounts of resources (the provision and management of the CMI CAS Servers can be costly) in order to provide TPHs with an unlimited amount of CMI CAS Servers. The purpose of the fee for extra CMI CAS Servers is to cover the costs related to the provision, management and upkeep of such CMI CAS Servers.

**2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling,

include this example in the Fees Schedule to provide additional clarity.

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

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

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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