

received no comments on the proposed rule change.

Section 19(b)(2) of the Act⁹ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on July 21, 2016. January 17, 2017 is 180 days from that date, and March 18, 2017 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates March 18, 2017 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSEArca-2016-96), as modified by Amendment No. 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79793; File No. SR-NYSEArca-2016-177]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of the USCF Canadian Crude Oil Index Fund Under NYSE Arca Equities Rule 8.200

January 13, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 30, 2016, NYSE Arca, Inc. (“Exchange”

or “NYSE Arca”) filed with the Securities and Exchange Commission (“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 list and trade the shares of the following under NYSE Arca Equities Rule 8.200, Commentary .02 (“Trust Issued Receipts”): USCF Canadian Crude Oil Index Fund. The proposed rule change is available on the Exchange’s Web site at 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 Exchange proposes to list and trade shares (“Shares”) of the following under NYSE Arca Equities Rule 8.200, Commentary .02, which governs the listing and trading of Trust Issued Receipts: USCF Canadian Crude Oil Index Fund (the “Fund”).⁴

The Fund is a new series of the United States Commodity Index Funds Trust (the “Trust”).⁵ The Fund is a

commodity pool that continuously issues common shares of beneficial interest that may be purchased and sold on the Exchange. The Trust and the Fund are managed and controlled by United States Commodity Funds LLC (“USCF” or “Sponsor”), which is registered as a commodity pool operator (“CPO”) with the Commodity Futures Trading Commission (“CFTC”) and is a member of the National Futures Association (“NFA”). Brown Brothers Harriman & Co., Inc. will be the administrator and custodian (“Administrator” or “Custodian”) for the Fund. ALPS Distributors, Inc. will be the marketing agent (“Marketing Agent”) for the Fund.

The Exchange notes that the Commission has previously approved the listing and trading of other issues of Trust Issued Receipts based on oil on the Exchange,⁶ trading on the Exchange of such issues pursuant to unlisted trading privileges,⁷ and listing and trading of such issues on the American Stock Exchange LLC (now, NYSE MKT, LLC).⁸

Investment Objective and Principal Investments of the Fund

According to the Registration Statement, the investment objective of the Fund is for the daily changes in percentage terms of its Shares’ per Share NAV to reflect the daily changes in percentage terms of the Canadian Crude Excess Return Index (the “CCIER” or “Index”), plus interest income from the Fund’s short-term fixed income holdings, less the Fund’s expenses.

The CCIER is owned and maintained by Auspice Capital Advisors Ltd. (“Auspice”) and is designed to measure the performance of the Canadian crude oil market. It is calculated and tracked daily and reported each trading day via major market data vendors.

The Fund’s investment strategy is designed to provide investors with a means of investing indirectly in Canadian crude oil and to hedge against movements in the spot price of Canadian crude oil. Specifically, the CCIER reflects the returns that an investor would expect to receive from

(“Securities Act”) relating to the Fund (File No. 333-212089) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

⁶ See, e.g., Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR-NYSEArca-2008-91).

⁷ See, e.g., Securities Exchange Act Release No. 58163 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR-NYSEArca-2008-73).

⁸ See, e.g., Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR-Amex-2008-39).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ *Id.*

¹¹ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in “Financial Instruments.” The term “Financial Instruments,” as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

⁵ The Trust is registered under the Securities Act of 1933. On June 16, 2016, the Trust filed with the Commission a registration statement on Form S-1 under the Securities Act of 1933 (15 U.S.C. 77a)

holding and rolling the futures contracts that comprise the Index.

The CCIER targets an exposure that represents an approximately 3 month rolling position in the following nearby futures contracts: (i) The ICE Crude Diff—TMX WCS 1B Index Future (ICE symbol: TDX) (the “WCS Future”); and (ii) the ICE WTI Crude Future (ICE symbol: T) (the “WTI Future”). The WCS Futures and WTI Futures that comprise the CCIER are referred to herein as “Benchmark Component Futures Contracts”.

The WCS Future is a monthly cash settled future based on the TMX WCS (Western Canadian Select) Daily Weighted Average Price Index (“TMX WCS 1b Index”) traded on ICE Futures Europe. The TMX WCS 1b Index is expressed as a differential to the NYMEX WTI 1st Line Future (Calendar Month Average).

The WTI Future is the ICE West Texas Intermediate (WTI) Light Sweet Crude Oil Futures Contract traded on ICE Futures Europe.⁹

The Fund will seek to achieve its investment objective by first entering into cash-settled over-the-counter (“OTC”) total return swap and forward transactions intended to replicate the return of the CCIER (“OTC Derivatives Contracts”, as described further below) and, second, to the extent market conditions are more favorable for such futures as compared to OTC Derivatives Contracts, investing in the Benchmark Component Futures Contracts that underlie the CCIER. It will support these investments by holding the amounts of its margin, collateral and other requirements relating to these obligations in short-term obligations of the United States of two years or less (“Treasuries”), cash and cash equivalents.

Third, if constrained by regulatory requirements or in view of market conditions or if one or more of the other Benchmark Component Futures Contracts is not available, the Fund may next invest in exchange traded futures contracts that are economically identical or substantially similar to the Benchmark Component Futures Contracts, *e.g.*, futures contracts that are based on changes in the price of WTI oil traded on the Chicago Mercantile Exchange (“CME”).

When, in view of regulatory requirements and market conditions, the Fund has invested to the fullest extent possible in the OTC Derivatives

⁹ICE Futures Europe, NYMEX and other futures exchanges on which the Fund may trade listed futures contracts are referred to collectively as “Futures Exchanges”.

Contracts and exchange-traded futures contracts, the Fund may then invest in other OTC derivative contracts and/or other contracts and instruments based on the Benchmark Component Futures Contracts or on the price of the crude oil underlying the Benchmark Component Futures Contracts, such as cash-settled options, cleared swap contracts and swap contracts other than cleared swap contracts.¹⁰

Market conditions that USCF currently anticipates could cause the Fund to invest in Other Crude Oil-Related Investments include those allowing the Fund to obtain greater liquidity, to execute transactions with more favorable pricing, or if the Fund or USCF exceeds position limits or accountability levels established by an exchange.

The Fund will seek to achieve its investment objective by investing so that the average daily percentage change in the Fund’s NAV for any period of 30 successive valuation days will be within plus/minus 10 percent (10%) of the average daily percentage change in the CCIER over the same period. The Sponsor believes that market arbitrage opportunities will cause daily changes in the Fund’s Share price on the NYSE Arca on a percentage basis to closely track the daily changes in the Fund’s per Share NAV on a percentage basis. The Sponsor also believes that the net effect of this expected relationship and the expected relationship described above between the Fund’s per Share NAV and the CCIER will be that the daily changes in the price of the Fund’s Shares on the NYSE Arca on a percentage basis will closely track the daily changes in the CCIER on a percentage basis, plus interest income from the Fund’s short-term fixed income holdings, less the Fund’s expenses.¹¹

The Fund will not seek to achieve its stated investment objective over a period of time greater than one day.

¹⁰The Benchmark Component Futures Contracts, other exchange-traded futures contracts that are economically identical or substantially similar to the Benchmark Component Futures Contracts and other contracts and instruments based on the Benchmark Component Futures Contracts, are referred to collectively as “Other Crude Oil-Related Investments”, and together with OTC Derivatives Contracts, “Crude Oil Interests”.

¹¹While the Fund is composed of, and is therefore a measure of, the prices of the OTC Derivatives Contracts based upon futures comprising the CCIER, there is expected to be a reasonable degree of correlation between the CCIER and the cash or spot prices of the commodities underlying the Benchmark Component Futures Contracts; but the Fund’s investment objective is not for its NAV or market price of Shares to equal, in dollar terms, the spot prices of the commodities underlying the Benchmark Component Futures Contracts or the prices of any particular group of futures contracts.

This is because natural market forces called contango and backwardation can impact the total return on an investment in the Fund’s Shares relative to a hypothetical direct investment in crude oil commodities and, in the future, it is likely that the relationship between the market price of the Fund’s Shares and changes in the spot prices of the underlying commodities will continue to be so impacted by contango and backwardation.

OTC Derivatives Contracts

According to the Registration Statement, the Fund will primarily invest in OTC Derivatives Contracts that are based on Benchmark Component Futures Contracts and, in the opinion of the Sponsor, are traded in sufficient volume to permit the ready taking and liquidation of positions. Such OTC Derivatives Contracts, as well as all other Other Crude Oil-Related Investments that are OTC derivatives, will be “swaps” for purposes of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act that fall within the jurisdiction of the Commodity Futures Trading Commission.

The OTC Derivatives Contracts will be entered between two parties, outside of public exchanges, in private contracts. Unlike the exchange-traded Benchmark Component Futures Contracts, each party to an OTC Derivatives Contract bears credit risk with respect to the other party. To reduce such credit risk, the Fund will generally enter into an agreement with each counterparty based on the Master Agreement published by the International Swaps and Derivatives Association, Inc. (“ISDA”) that provides for the netting of overall exposure between counterparties.¹² In accordance with the terms and conditions of the Fund’s ISDA Master Agreement, pursuant to which the Fund’s OTC Derivatives Contracts will be entered into, the Fund will be entitled to increase or decrease its notional exposure to the CCIER from time to time, to among other things, manage Share purchases and reinvestment of distributions, Fund Share redemptions and market repurchases of Shares, and

¹²The ISDA Master Agreement allows for parties to calculate and settle their obligations under the agreement on a “net basis” with a single payment. Consequently, the Sponsor’s current obligations (or rights) under a swap or forward agreement are generally only equal to the net amount to be paid or received under the agreement based on the relative values of such obligations (or rights). In addition, in connection with the Master Agreements, the Sponsor will enter into ISDA Credit Support Annexes (“CSAs”) with its counterparties to mitigate counterparty credit exposure.

meet other liquidity needs. Reducing notional exposure may be achieved through different methods, including the use of offsetting forwards and partial terminations of OTC Derivatives Contracts.

The Sponsor will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to an OTC Derivatives Contract pursuant to guidelines approved by the Sponsor's board. In respect of the OTC Derivatives Contracts, the Fund will have the ability to replace a counterparty or engage additional counterparties at any time.

The daily marked-to-market value of an OTC Derivatives Contract will be based upon the performance of a notional investment in the CCIER. In turn, the performance of the CCIER will be based upon the performance of the underlying Benchmark Component Futures Contracts. Under the CSAs, the parties will be required to determine the mark-to-market value of the OTC Derivative Contract(s) on a daily basis. Subject to a minimum transfer amount, the party that is "out of the money" would transfer collateral in the form of cash or U.S. Treasuries to its counterparty to cover the exposure under the OTC Derivative Contract.

The Fund may also enter into multiple OTC Derivatives Contracts for the purpose of achieving its investment objective. If an OTC Derivatives Contract is terminated, the Fund may either pursue the same or other alternative investment strategies with an acceptable counterparty, or make direct investments in the Benchmark Component Futures Contracts or other investments that provide a similar return to investing in the Benchmark Component Futures Contracts.

The Fund may also enter into certain transactions where an OTC component is exchanged for a corresponding futures contract (an "Exchange for Related Position" or "EFRP" transaction).¹³ The Fund may also employ spreads or straddles in its trading to mitigate the differences in its investment portfolio and its goal of tracking the price of the Benchmark Component Futures Contracts.¹⁴

Creation and Redemption of Shares

According to the Registration Statement, the Fund will create and redeem Shares from time to time, in one

or more "Creation Baskets" or "Redemption Baskets". The creation and redemption of baskets will only be made in exchange for delivery to the Fund or the distribution by the Fund of the amount of Treasuries and/or cash represented by the baskets being created or redeemed, the amount of which will be equal to the combined NAV of the number of Shares included in the baskets being created or redeemed determined as of 4:00 p.m. Eastern Time ("E.T.") on the day the order to create or redeem baskets is properly received.

"Authorized Participants" are the only persons that may place orders to create and redeem baskets. Authorized Participants must be (1) registered broker dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (2) Depository Trust and Clearing Participants.

On any business day, an Authorized Participant may place an order with the Marketing Agent to create one or more baskets. By placing a purchase order, an Authorized Participant agrees to deposit Treasuries, cash or a combination of Treasuries and cash with the Trust.

The total deposit required to create each basket ("Creation Basket Deposit") is the amount of Treasuries and/or cash that is in the same proportion to the total assets of the Fund (net of estimated accrued but unpaid fees, expenses and other liabilities) on the purchase order date as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the purchase order date. The amount of cash deposit required is the difference between the aggregate market value of the Treasuries required to be included in a Creation Basket Deposit as of 4:00 p.m. E.T. on the date the order to purchase is properly received and the total required deposit.

The procedures by which an Authorized Participant can redeem one or more baskets mirror the procedures for the creation of baskets. On any business day, an Authorized Participant may place an order with the Marketing Agent to redeem one or more baskets. Redemption orders must be placed by 10:30 a.m. E.T. or the close of regular trading on the NYSE Arca, whichever is earlier.

The Sponsor may, in its discretion, suspend the right of redemption, or postpone the redemption settlement date, (1) for any period during which NYSE Arca or any of the futures exchanges upon which a Benchmark Component Futures Contract is traded is closed other than customary weekend or

holiday closings, or trading on NYSE Arca or such futures exchanges is suspended or restricted, (2) for any period during which an emergency exists as a result of which delivery, disposal or evaluation of Treasuries is not reasonably practicable, or (3) for such other period as the Sponsor determines to be necessary for the protection of the shareholders.

Calculating Per Share NAV

According to the Registration Statement, the Fund's per Share NAV will be calculated by taking the current market value of its total assets; subtracting any liabilities; and dividing that total by the total number of outstanding Shares.

The Administrator will calculate the NAV of the Fund once each NYSE Arca trading day. The NAV for a normal trading day will be released after 4:00 p.m. E.T. Trading during the Core Trading Session on the NYSE Arca typically closes at 4:00 p.m. E.T. The Administrator will use the updated value of the CCIER calculated shortly after the determination by the relevant Futures Exchanges of the closing prices of the Benchmark Component Futures Contracts (determined at the earlier of the close of such exchange or 2:30 p.m. E.T.) for the contracts traded on the Futures Exchanges, but calculate or determine the value of all other investments of the Fund using market quotations, if available, or other information customarily used to determine the fair value of such investments as of the earlier of the close of the NYSE Arca or 4:00 p.m. E.T. Other information customarily used in determining fair value includes information consisting of market data in the relevant market supplied by one or more third parties including, without limitation, relevant rates, prices, yields, yield curves, volatilities, spreads, correlations or other market data in the relevant market; or information of the types described above from internal sources if that information is of the same type used by the Fund in the regular course of their business for the valuation of similar transactions. Third parties supplying quotations or market data may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors, brokers and other sources of market information.

Derivatives for which market quotes are readily available will be valued at market value. Local closing prices will be used for all instrument valuation purposes. Swaps traded on exchanges will use the applicable exchange closing price where available.

¹³ In the most common type of EFRP transaction entered into by the Fund, the OTC component is the purchase or sale of one or more baskets of the Fund's Shares, as described below.

¹⁴ The Fund would use a spread when it chooses to take simultaneous long and short positions in futures written on the same underlying asset, but with different delivery months.

With respect to specific derivatives, futures will generally be valued at the settlement price of the relevant exchange. A total return swap on the CCIER will be valued at the publicly available CCIER price. The CCIER, in turn, is determined by the applicable index calculation agent, which generally values the commodities underlying the Index at the last reported sale price.

Indicative Fund Value

In addition, in order to provide updated information relating to the Fund for use by investors and market professionals, the NYSE Arca will calculate and disseminate throughout the Core Trading Session on each trading day an updated Indicative Fund Value ("IFV"). The IFV will be calculated by using the prior day's closing NAV per Share of the Fund as a base and updating that value throughout the trading day to reflect changes in the most recently reported trade prices for the Benchmark Component Futures Contracts as reported by Bloomberg, L.P. or another reporting service.

The IFV will be disseminated on a per Share basis every 15 seconds during regular NYSE Arca Core Trading Session hours of 9:30 a.m. E.T. to 4:00 p.m. E.T. The normal trading hours of the ICE Exchange ends prior to the close of the Core Trading Session on NYSE Arca. As a result, there will be a gap in time at the beginning and/or the end of each day during which the Fund's Shares are traded on the NYSE Arca, but real-time futures exchange trading prices for Benchmark Component Futures Contracts traded on the ICE Exchange are not available. During such gaps in time the IFV will be calculated based on the end of day price of such Benchmark Component Futures Contracts from Futures Exchanges immediately preceding trading session. In addition, Other Crude Oil-Related Investments and Treasuries held by the Fund will be valued by the Administrator, using rates and points received from client-approved third party vendors (such as Reuters and WM Company) and advisor quotes. These investments will not be included in the IFV. The IFV will be available through on-line information services.

With respect to specific derivatives: Total return swaps may be valued intraday using the underlying asset price, or another proxy as determined to be appropriate by a third party market data provider. Exchange listed options may be valued intraday using the relevant exchange data, or another proxy as determined to be appropriate by a third party market data provider.

Availability of Information

The NAV for the Fund's Shares will be disseminated daily to all market participants at the same time. The intraday, closing prices, and settlement prices of the Benchmark Component Futures Contracts will be readily available from automated quotation systems, published or other public sources, or major market data vendors.

Complete real-time data for the Benchmark Component Futures Contracts is available by subscription from major market data vendors. ICE Futures also provides delayed futures information on current and past trading sessions and market news free of charge on its Web site. The specific contract specifications for the Benchmark Component Futures Contracts are also available on such Web site, as well as other financial informational sources. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Fund's Web site, www.uscfinvestments.com, will display the applicable end of day closing NAV. The daily holdings of the Fund will be available on the Fund's Web site. The Fund's total portfolio composition will be disclosed each business day that the NYSE Arca is open for trading, on the Fund's Web site. The Web site disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the name, percentage weighting, and value of OTC Derivatives Contracts and each Benchmark Component Futures Contract, (iii) the name and value of each Treasury security and cash equivalent, and (iv) the amount of cash held in the Fund's portfolio. The Fund's Web site will be publicly accessible at no charge. This Web site disclosure of the portfolio composition of the Fund will occur at the same time as the disclosure by the Sponsor of the portfolio composition to Authorized Participants so that all market participants will be provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current portfolio composition of the Fund through the Fund's Web site.

Intra-day price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Intra-day price information for OTC options, forwards, and OTC

derivative instruments will be available from major market data vendors. Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, intra-day price information for U.S. exchange-traded options is available from the Options Price Reporting Authority.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.¹⁵ Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Index occurs. If the interruption to the dissemination of the IFV, or the value of the Index persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.200. The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200,

¹⁵ See NYSE Arca Equities Rule 7.12.

Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (“ETP”) Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3¹⁶ under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.¹⁷ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and the Benchmark Component Futures Contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and the Benchmark Component Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the Benchmark Component Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a

comprehensive surveillance sharing agreement (“CSSA”).¹⁸

Not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts shall consist of futures contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolios, and (b) limitations on portfolio holdings or reference assets shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the 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).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (3) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the IFV is disseminated; (5) that a static IFV will be disseminated, between the close of trading on the CME and the close of the NYSE Arca Core Trading Session; (6) the requirement that ETP Holders deliver a prospectus to investors

purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (7) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Benchmark Component Futures Contracts and the OTC Derivatives Contracts.

The Information Bulletin will also disclose the trading hours of the Shares that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Fund’s Web site.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, and Benchmark Component Futures Contracts with

¹⁶ 17 CFR 240.10A-3.

¹⁷ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

¹⁸ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Fund may trade on markets that are members of ISG or with which the Exchange has in place a CSSA. The Exchange has in place a CSSA with ICE Futures Europe.

¹⁹ 15 U.S.C. 78f(b)(5).

other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and Benchmark Component Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and Benchmark Component Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA.

Not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts shall consist of futures contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The intraday, closing prices, and settlement prices of the Benchmark Component Futures Contracts will be readily available from the applicable Futures Exchanges' Web sites, automated quotation systems, published or other public sources, or on-line information services.

Complete real-time data for the Benchmark Component Futures Contracts is available by subscription from on-line information services. The Futures Exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their Web sites. The specific contract specifications for the Benchmark Component Futures Contracts are also available on such Web sites, as well as other financial informational sources. Information regarding exchange-traded cash-settled options and cleared swap contracts will be available from the applicable exchanges and major market data vendors. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Fund's Web site, will display the applicable end of day closing NAV. The Fund's total portfolio composition will be disclosed each business day that the NYSE Arca is open for trading, on the Fund's Web site. The Web site disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the name, percentage weighting, and value of OTC Derivatives Contracts and each Benchmark Component Futures Contract, (iii) the name and value of each Treasury security and cash

equivalent, and (iv) the amount of cash held in the Fund's portfolio. The Fund's disclosure of derivative positions will include information that market participants can use to value these positions intraday.

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The proposed rule change is designed to promote just and equitable principles of trade and to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of issue of Trust Issued Receipts based on oil that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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 notes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that primarily hold derivatives and futures contracts and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may

designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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-NYSEArca-2016-177 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-2016-177. 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–2016–177 and should be submitted on or before February 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79792; File No. SR–NYSEARCA–2016–176]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of the EtherIndex Ether Trust Under NYSE Arca Equities Rule 8.201

January 13, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that, on December 30, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.201: EtherIndex Ether Trust (“Trust”). The proposed rule change is available on the Exchange’s Web site at 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

Under NYSE Arca Equities Rule 8.201, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (“UTP”) “Commodity-Based Trust Shares.”⁴ The Exchange proposes to list and trade shares (“Shares”) of the Trust pursuant to NYSE Arca Equities Rule 8.201.⁵

The sponsor of the Trust is EtherIndex LLC (“Sponsor”), a Delaware limited liability company. Delaware Trust Company is the trustee of the Trust (“Trustee”). The Bank of New York Mellon will be the administrator (“Administrator”) and custodian of cash of the Trust (“Cash Custodian”). Coinbase will be the custodian of the ether of the Trust (“Ether Custodian”).

According to the Registration Statement, each Share will represent a unit of fractional undivided beneficial interest in and ownership of the Trust. The activities of the Trust will be limited to (i) issuing “Baskets” (as described below) to “Authorized Participants” (as described below) in exchange for the cash or, in the Sponsor’s discretion, ether (as described below), (ii) selling ether or transferring ether, at the Sponsor’s discretion, as necessary to cover the Sponsor’s fee and as necessary to pay Trust expenses not assumed by the Sponsor and other liabilities, (iii) selling or transferring ether in exchange for Baskets surrendered for redemption by the Authorized Participants, (iv) causing the Administrator to sell ether on the termination of the Trust and (v) engaging in all administrative and custodial procedures necessary to accomplish such activities in accordance with the provisions of relevant agreements.

⁴ 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.

⁵ On November 28, 2016, the Trust filed an amended registration statement (“Registration Statement”) on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) (File No. 333–212533). The descriptions of the Trust, the Shares and ether contained herein are based, in part, on the Registration Statement.

According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,⁶ nor a commodity pool for purposes of the Commodity Exchange Act (“CEA”),⁷ and neither the Sponsor nor the Trustee is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the operation of the Trust.

Investment Objective

According to the Registration Statement and as further described below, the Trust’s purpose will be to provide shareholders with exposure to the daily change in the U.S. dollar price of ether, before expenses and liabilities of the Trust, as measured by the price of ether in U.S. dollars as reported by the Global Digital Asset Exchange (“GDAX”) as of 4:00 p.m., Eastern Time (“E.T.”), each day (“GDAX Price”).

The Trust will not be actively managed. It will not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the market prices of ether.

Ether and the Ethereum Network

According to the Registration Statement, ether is a digital asset similar to bitcoin. It is not issued by any government, bank or central organization but rather is issued by, and transmitted through, the decentralized, open source protocol of the peer-to-peer Ethereum computer network (“Ethereum Network”). The Ethereum Network is a decentralized network of computers that run applications on a custom built “blockchain” (“Ethereum Blockchain”) that enables developers to create markets, store registries of debts or promises, represent the ownership of property and move funds in accordance with instructions given in the past, all without the involvement of an intermediary or counterparty. The Ethereum Blockchain is a decentralized public transaction ledger hosted on the Ethereum Network on which all ether is recorded; the blockchain records ether balances and every ether address associated with a quantity of ether (see “Ethereum Blockchain” below). No single entity owns or operates the Ethereum Network.

According to the Registration Statement, unlike bitcoin, ether was not designed to function purely as a store of value. Instead, ether was meant to pay for specific actions on the Ethereum Network. However, ether’s market is

⁶ 15 U.S.C. 80a–1.

⁷ 17 U.S.C. 1.

²⁰ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.