

the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that MIAX EMERALD proposes to incorporate by reference. The exemption is conditioned upon MIAX EMERALD providing written notice to MIAX EMERALD members whenever MIAX Exchange, Cboe, NYSE or FINRA proposes to change an incorporated by reference rule and when the Commission approves any such changes. The Commission believes that the exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission's and SROs' resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought to be implemented by more than one SRO.

#### V. Conclusion

*It is ordered* that the application of MIAX EMERALD for registration as a national securities exchange be, and it hereby is, granted.

*It is further ordered* that operation of MIAX EMERALD is conditioned on the satisfaction of the requirements below:

A. *Participation in National Market System Plans Relating to Options Trading.* MIAX EMERALD must join: (1) The Plan for the Reporting of Consolidated Options Last Sale Reports and Quotation Information (Options Price Reporting Authority); (2) the OLPP; (3) the Linkage Plan; (4) the Plan of the Options Regulatory Surveillance Authority; and (5) the Plan Governing the Consolidated Audit Trail;

B. *Participation in Multiparty Rule 17d-2 Plans.* MIAX EMERALD must become a party to the multiparty Rule 17d-2 agreements concerning options sales practice regulation and market surveillance, and covered Regulation NMS rules;

C. *Participation in the Options Clearing Corporation.* MIAX EMERALD must become an Options Clearing Corporation participant exchange; and

D. *Participation in the Intermarket Surveillance Group.* MIAX EMERALD must join the Intermarket Surveillance Group.

*It is further ordered*, pursuant to Section 36 of the Act,<sup>294</sup> that MIAX EMERALD shall be exempted from the rule filing requirements of Section 19(b) of the Act with respect to the MIAX Exchange, Cboe, NYSE and FINRA rules that MIAX EMERALD proposes to incorporate by reference, subject to the conditions specified in this order that MIAX EMERALD provide written notice

to MIAX EMERALD members whenever MIAX Exchange,

Cboe, NYSE or FINRA proposes to change an incorporated by reference rule and when the Commission approves any such changes.

By the Commission.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2018-28179 Filed 12-27-18; 8:45 am]

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### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33343; 812-14812]

#### AQR Trust and AQR Capital Management, LLC; Notice of Application

December 21, 2018.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds; (f) certain Funds ("Feeder Funds") to create and redeem Creation Units in-kind in a master-feeder structure; and (g) certain Funds to issue Shares in less than Creation Unit size to investors participating in a distribution reinvestment program.

**APPLICANTS:** AQR Trust (the "Trust"), a Delaware statutory trust that will register under the Act as an open-end management investment company with multiple series and AQR Capital Management, LLC (the "Initial Adviser"), a Delaware corporation registered as an investment adviser under the Investment Advisers Act of 1940.

**FILING DATES:** The application was filed on August 17, 2017 and amended on April 9, 2018, August 8, 2018, and December 12, 2018.

**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 January 15, 2019, 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, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090; Applicants: William J. Fenrich, Esq., AQR Capital Management, LLC, Two Greenwich Plaza, 4th Floor, Greenwich, Connecticut 06830.

**FOR FURTHER INFORMATION CONTACT:** Steven I. Amchan, Senior Counsel, at (202) 551-6826, Hae-Sung Lee, Senior Counsel, at (202) 551-7345, or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551-6825 (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 website 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.

#### Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds ("ETFs").<sup>1</sup> Fund

<sup>1</sup> Applicants request that the order apply to the initial fund and any additional series of the Trust, and any other existing or future open-end

shares will be purchased and redeemed at their NAV in Creation Units (other than pursuant to a distribution reinvestment program), as described in the application. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant", which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.<sup>2</sup>

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis, or issued in less than Creation Unit size to investors participating in a distribution reinvestment program. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments ("Deposit Instruments"), and shareholders redeeming their shares will receive specified instruments ("Redemption Instruments"). The

management investment company or existing or future series thereof (each, included in the term "Fund"), each of which will operate as an ETF, and their respective existing or future Master Funds and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an "Underlying Index"). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an "Adviser") and (b) comply with the terms and conditions of the application. For purposes of the requested order, a "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from Section 5(a)(1) and Section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units (other than pursuant to a dividend reinvestment program).

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i)

undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instrument and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.<sup>3</sup> The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund ("Master Fund") beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act

<sup>3</sup> The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84897; File No. SR-ISE-2018-100]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .02 to Rule 715

December 20, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 20, 2018, Nasdaq ISE, LLC (“ISE” 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 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 amend Supplementary Material .02 to Rule 715, which relates to Cancel and Replace Orders, to correct an inadvertent error in the rule text.

The text of the proposed rule change is available on the Exchange’s website at

<http://ise.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 Exchange recently filed a proposal to amend Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders to correct an inconsistency between the Exchange’s rule text and the operation of the System<sup>3</sup> by removing the reference to Rule 710, which relates to minimum price variations applicable to single leg options series traded on the Exchange.<sup>4</sup> The Exchange, however, inadvertently omitted the deletion of Rule 722(c)(1) from this rule. Rule 722(c)(1) corresponds to Rule 710 in that it relates to minimum price variations of complex strategies. Accordingly, the Exchange is proposing herein to delete the reference to Rule 722(c)(1) from Supplementary Material .02 to Rule 715.

By way of background, a member currently has the option of either sending in a cancel order and then separately sending in a new order which serves as a replacement of the original order (two separate messages), or sending a single cancel and replace order in one message (*i.e.*, a Cancel and Replace Order). Specifically, Supplementary Material .02 to Rule 715 defines a Cancel and Replace Order as a single message for the immediate cancellation of a previously received order and the replacement of that order

with a new order.<sup>5</sup> The replacement portion of the Cancel and Replace Order is treated as a new order and as a result, goes through price or other reasonability checks conducted by the System to validate such order against current market conditions prior to proceeding with request to modify the order.<sup>6</sup> If the replacement portion of a Cancel and Replace Order does not satisfy the System’s price or other reasonability checks, the existing order will be cancelled and not replaced.

Accordingly, the reference to Rule 710, which relates to minimum price variations applicable to single leg options series traded on the Exchange, was deleted from Supplementary Material .02 to Rule 715 as part of SR-ISE-2018-97, because Rule 710 does not involve the System considering the current market at the time of the Cancel and Replace Order.<sup>7</sup> The Exchange further explained in SR-ISE-2018-97 that an incoming Cancel and Replace Order that fails the minimum price variation checks in Rule 710 would not result in the existing order being cancelled and not replaced.<sup>8</sup> Accordingly, the Exchange removed the reference to Rule 710 from the list of price or other reasonability checks to conform its rule text to the System.

As noted above, Rule 722(c)(1) relates to minimum price variations of complex strategies, and is therefore analogous to the single leg rule in ISE Rule 710. The Exchange therefore proposes to delete Rule 722(c)(1) from Supplementary Material .02 to Rule 715 for the same reasons provided above for Rule 710. Similar to Rule 710, Rule 722(c)(1) does not involve the System considering the current market at the time of the Cancel and Replace Order, and an incoming Cancel and Replace Order that fails the minimum price variation checks for complex strategies in Rule 722(c)(1) would likewise not result in the existing

<sup>5</sup> If the previously placed order is already filled partially or in its entirety, the replacement order is automatically cancelled or reduced by the number of contracts that were executed. See Supplementary Material .02 to Rule 715. Supplementary Material .02 to Rule 715 further provides how the replacement portion may retain the priority of the original order, provided certain specified conditions are met. The manner in which the Exchange treats priority with respect to Cancel and Replace Orders is not changing under this proposal.

<sup>6</sup> See Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR-ISE-2017-03) (memorializing Cancel and Replace Orders in Supplementary Material .02 to Rule 715 as part of the Exchange’s system migration to INET technology).

<sup>7</sup> See note 4 above.

<sup>8</sup> *Id.* In this instance, the System would simply reject the cancel and replace message as an invalid instruction. The Exchange notes that the previous T7 system likewise treated Cancel and Replace Orders in this manner.

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

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

<sup>3</sup> The term “System” means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. See Rule 100(a)(63).

<sup>4</sup> See Securities Exchange Act Release No. 84741 (December 6, 2018), 83 FR 63922 (December 12, 2018) (SR-ISE-2018-97).