

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019-19902 Filed 9-13-19; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Investment Company Act Release No. 33622; File No. 812-15031 ETFis Series Trust I, et al.; Notice of Application

September 11, 2019.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice.

Notice of an application for an order under section 12(d)(1)(f) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies (each an “Unaffiliated Open-End Investment Company”), registered closed-end investment companies and “business development companies,” as defined in section 2(a)(48) of the Act (each registered closed-end management and each business development company, an “Unaffiliated Closed-End Investment Company” and, together with the Unaffiliated Open-End Investment Companies, the “Unaffiliated Investment Companies”), and registered unit investment trusts (the “Unaffiliated Trusts,” and together with the Unaffiliated Investment Companies, the “Unaffiliated Funds”) that are within the same group of investment companies (collectively, the “Affiliated Funds”) and outside the same group of investment companies as the acquiring investment companies (collectively, the Affiliated Funds and, together with the Unaffiliated Funds, the “Underlying Funds”), in excess of the limits in section 12(d)(1) of the Act.

**APPLICANTS:** ETFis Series Trust I and Virtus ETF Trust II, Delaware statutory trusts that are registered under the Act as open-end management investment companies and intend to introduce multiple series, and Virtus ETF Advisers LLC, a Delaware limited liability company registered as an

investment adviser under the Investment Advisers Act of 1940.

**FILING DATES:** The application was filed on May 9, 2019.

**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 October 7, 2019 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

Applicants: William J. Smalley, Virtus ETF Advisers LLC, 1540 Broadway, New York, NY 10036; and Michael W. Mundt, Esq., Stradley Ronon Stevens & Young, LLP, 1250 Connecticut Avenue NW, Suite 500, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Rochelle Kauffman Plesset, Senior Counsel, or David J. Marcinkus, 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 to permit (a) a Fund<sup>1</sup> (each a “Fund of

<sup>1</sup> Applicants request that the order apply to each existing and future series of ETFis Series Trust I and Virtus ETF Trust II and to each existing and future registered open-end investment company or series thereof that is advised by Virtus ETF Advisers LLC or its successor or by any other investment adviser controlling, controlled by or under common control with Virtus ETF Advisers LLC or its successor and is part of the same “group of investment companies” as ETFis Series Trust I and Virtus ETF Trust II (each, a “Fund”). For purposes of the requested order, “successor” is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term “group of

Funds”) to acquire shares of Underlying Funds<sup>2</sup> in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.<sup>3</sup> Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.<sup>4</sup> Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential

investment companies” means any two or more registered investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

<sup>2</sup> Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (“ETF”).

<sup>3</sup> Applicants do not request relief for Funds of Funds to invest in reliance on the order in business development companies and registered closed-end investment companies that are not listed and traded on a national securities exchange.

<sup>4</sup> A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF or closed-end fund through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each ETF or Unaffiliated Closed-End Investment Company that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the 1940 Act, of a Fund of Funds to sell shares to or redeem shares from the Fund of Funds. This includes, in the case of sales and redemptions of shares of ETFs, the in-kind transactions that accompany such sales and redemptions. The Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF, business development company, or closed-end fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF, business development company, or closed-end fund or an entity controlling, controlled by or under common control with the investment adviser to the ETF, business development company, or closed-end fund, is also an investment adviser to the Fund of Funds.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

(i) undue influence over an Underlying Fund that is not in the same “group of investment companies” as the Fund of Funds 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), (B), and (C) of the Act.

3. Section 12(d)(1)(f) of the Act 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. 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.

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

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, the Securities and Exchange Commission will hold an Open Meeting on Wednesday, September 18, 2019 at 10:00 a.m.

**PLACE:** The meeting will be held in Auditorium LL-002 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will begin at 10:00 a.m. (ET) and will be open to the public.

Seating will be on a first-come, first-served basis. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at [www.sec.gov](http://www.sec.gov).

**MATTER TO BE CONSIDERED:** 1. The Commission will consider whether to adopt amendments to rules adopted under section 13 of the Bank Holding Company Act related to prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds (commonly known as the “Volcker rule”).

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

**CONTACT PERSON FOR MORE INFORMATION:** For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman, Office of the Secretary, at (202) 551-5400.

Dated: September 11, 2019.

**Vanessa A. Countryman,**  
*Secretary.*

[FR Doc. 2019-20040 Filed 9-12-19; 11:15 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86917; File No. SR-NYSEAMER-2019-36]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE American Options Fee Schedule

September 10, 2019.

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 September 3, 2019, NYSE American LLC (“NYSE American” or the “Exchange”) 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<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.

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

The Exchange proposes to amend the NYSE American Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective September 3, 2019. The proposed change is available on the Exchange's website 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 purpose of this filing is to amend the Fee Schedule to modify the Strategy Execution Fee Cap (“Strategy Cap”), as set forth below.

Currently, Section I.J. of the Fee Schedule provides that transaction fees for ATP Holders are limited or capped at \$750 for certain options strategy executions “on the same trading day in the same option class” and such fees are further capped at \$25,000 per month per initiating firm.<sup>4</sup> Strategy executions that qualify for the Strategy Cap are (a) reversals and conversions, (b) box spreads, (c) short stock interest spreads, (d) merger spreads, and (e) jelly rolls, which are described in detail in the Fee Schedule (the “Strategy Executions”).<sup>5</sup>

The Exchange proposes to increase the daily Strategy Cap from \$750 to \$1,000 and to include in the Cap all Strategy Executions traded in the same day (*i.e.*, to eliminate the Cap requirement that strategies be in the

<sup>4</sup> See Fee Schedule, Section I. J. (Strategy Execution Fee Cap), available here: [https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE\\_American\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf).

<sup>5</sup> See *id.* Any qualifying Strategy Execution executed as a QCC order will not be eligible for this fee cap. See *id.*