

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62796; File No. SR-FICC-2010-06]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules Relating to Authority To Waive Rules, Procedures, and Regulations of the Mortgage-Backed Securities Division

August 30, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on August 20, 2010, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC.<sup>2</sup> FICC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) and Rule 19b-4(f)(3) thereunder so that the proposed rule change was effective upon filing with the Commission.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change will amend FICC rules to provide that any officer having a rank of Managing Director or higher is authorized to suspend or waive FICC’s rules, procedures, and regulations of the Mortgage-Backed Securities Division.

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

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>4</sup>

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

The proposed rule change amends Rule 12 of Article V of the Clearing Rules (“Rules”) of the Mortgage-Backed Securities Division (“MBSD”) to state that the rules, procedures, and regulations may be suspended or waived by any officer having a rank of Managing Director or higher. Currently Rule 12 provides such authority to officers with the ranking of Vice President or higher.<sup>5</sup> This proposed rule change also harmonizes MBSD rules with those of FICC’s Government Securities Division (“GSD”) as well as those of The Depository Trust Company (“DTC”) and the National Securities Clearing Corporation (“NSCC”) as such rule relates to the authority to suspend or waive rules.<sup>6</sup>

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>7</sup> and the rules and regulations thereunder that are applicable to FICC because the proposed rule will require a more senior level of management to authorize a suspension or waiver of the FICC rules under the proposed rule change thereby ensuring more equitable compliance with FICC’s rules and procedures. The proposed rule change also harmonizes the MBSD rules with those of the GSD thereby providing clarity for FICC’s members on its administration of waivers and suspension of FICC’s rules and procedures.

#### (B) Self-Regulatory Organization’s Statement on Burden on Competition

FICC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### (C) Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. FICC will notify the Commission of any written comments received by the FICC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(3)<sup>9</sup> thereunder because it is concerned solely with the administration of FICC. At any time within sixty days of the filing of such 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.

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2010-06 on the subject line.

##### Paper Comments

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

All submissions should refer to File Number SR-FICC-2010-06. This file number should be included on the subject line if e-mail 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

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

<sup>2</sup> The text of the proposed rule change is attached as Exhibit 5 to FICC’s filing and is available at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/ficc/2010-06.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/ficc/2010-06.pdf).

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii) and 17 CFR 240.19b-4(f)(3).

<sup>4</sup> The Commission has modified the text of the summaries prepared by the FICC.

<sup>5</sup> Managing Director level is a more senior officer than that of Vice President.

<sup>6</sup> On August 23, 2010, DTC and NSCC filed similar rule changes. Securities Exchange Act Release No. 62795 (August 30, 2010) [File No. SR-DTC-2010-11] and 62794 (August 30, 2010) [File No. SR-NSCC-2010-08] respectively.

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(3).

Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site, <http://www.dtcc.com>. 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-FICC-2010-06 and should be submitted on or before September 29, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-22351 Filed 9-7-10; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62788; File No. SR-NYSEArca-2010-79]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Relating to Listing and Trading of Cambria Global Tactical ETF

August 30, 2010.

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 23, 2010, 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 list and trade shares of the Cambria Global Tactical ETF under NYSE Arca Equities Rule 8.600. The text of the proposed rule change is available at the principal office of the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

<sup>10</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.

#### 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 the following Managed Fund Shares<sup>3</sup> ("Shares") under NYSE Arca Equities Rule 8.600: the Cambria Global Tactical ETF ("Fund").<sup>4</sup> The Shares will be offered by AdvisorShares Trust (the "Trust"), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.<sup>5</sup> The investment advisor to the Fund is AdvisorShares Investments,

<sup>3</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment advisor consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>4</sup> The Commission approved NYSE Arca Equities Rule 8.600 and the listing and trading of certain funds of the PowerShares Actively Managed Exchange-Traded Funds Trust on the Exchange pursuant to Rule 8.600 in Securities Exchange Act Release No. 57619 (April 4, 2008) 73 FR 19544 (April 10, 2008) (SR-NYSEArca-2008-25). The Commission also previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR-NYSEArca-2009-55) (order approving listing of Dent Tactical ETF).

<sup>5</sup> The Trust is registered under the 1940 Act. On June 30, 2010, the Trust filed with the Commission Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-157876 and 811-22110) ("Registration Statement"). The description of the operation of the Trust and the Fund herein is based on the Registration Statement.

LLC (the "Advisor"). Cambria Investment Management, Inc. is the Fund's sub-advisor ("Cambria" or "Sub-Advisor") and provides day-to-day portfolio management of the Fund. Foreside Fund Services, LLC (the "Distributor") is the principal underwriter and distributor of the Fund's Shares. Neither the Advisor nor the Sub-Advisor is affiliated with a broker-dealer.<sup>6</sup>

##### Description of the Fund

According to the Registration Statement, the Fund's investment objective is to preserve and grow capital from investments in the U.S. and foreign equity, fixed income, commodity and currency markets, independent of market direction. The Fund seeks to preserve and grow capital by producing absolute returns with reduced volatility and manageable risk and drawdowns. The Fund's investment strategies are inherently designed as risk-management and capital preservation approaches. The Fund is an actively managed ETF and thus, does not seek to replicate the performance of a specific index, but rather uses an active investment strategy to meet its investment objective.

The Fund is considered a "fund-of-funds" that seeks to achieve its investment objective by primarily investing in other exchange-traded funds listed and traded in the United States (the "Underlying ETFs") that offer

<sup>6</sup> The Exchange represents that the Advisor and Sub-Advisor and their related personnel are subject to Investment Advisers Act Rule 204A-1. This Rule specifically requires the adoption of a code of ethics by an investment advisor to include, at a minimum: (i) Standards of business conduct that reflect the firm's/personnel fiduciary obligations; (ii) provisions requiring supervised persons to comply with applicable Federal securities laws; (iii) provisions that require all access persons to report, and the firm to review, their personal securities transactions and holdings periodically as specifically set forth in Rule 204A-1; (iv) provisions requiring supervised persons to report any violations of the code of ethics promptly to the chief compliance officer ("CCO") or, provided the CCO also receives reports of all violations, to other persons designated in the code of ethics; and (v) provisions requiring the investment advisor to provide each of the supervised persons with a copy of the code of ethics with an acknowledgement by said supervised persons. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment advisor to provide investment advice to clients unless such investment advisor has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment advisor and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.