

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2018-056 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-CboeEDGX-2018-056. 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 website (<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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2018-056, and should be submitted on or before December 27, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-84696; File No. SR-NYSEArca-2018-82]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Regarding Certain Changes Relating to Investments of the PGIM Active High Yield Bond ETF**

November 30, 2018.

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 November 16, 2018, 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, 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.

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

The Exchange proposes certain changes regarding investments of the PGIM Active High Yield Bond ETF (the "Fund"), a series of PGIM ETF Trust (the "Trust"). Shares of the Fund currently are listed and traded on the Exchange under NYSE Arca Rule 8.600-E ("Managed Fund Shares"). 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.

<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.

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

1. Purpose

The Exchange proposes certain changes, described below under "Application of Generic Listing Requirements", regarding investments of the Fund. The shares ("Shares") of the Fund are currently listed and traded on the Exchange under Commentary .01 to NYSE Arca Rule 8.600-E,<sup>4</sup> which provides generic criteria applicable to the listing and trading of Managed Fund Shares.<sup>5</sup> PGIM Investments LLC (the "Adviser") is the investment adviser for the Fund. PGIM Fixed Income (the "Subadviser"), a unit of PGIM, Inc., is the subadviser to the Fund. PIMS, the Adviser and the Subadviser are indirect wholly-owned subsidiaries of Prudential Financial, Inc. Brown Brothers Harriman & Co., which is unaffiliated with PIMS, the Adviser and the Subadviser, serves as the custodian, administrator, and transfer agent ("Transfer Agent") for the Fund.<sup>6</sup> Prudential Investment Management Services LLC ("PIMS"), a registered broker-dealer, acts as the distributor (the "Distributor") for the Fund's Shares.

Commentary .06 to Rule 8.600-E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a "fire wall" between the investment adviser and the

<sup>4</sup> Shares of the Fund commenced trading on the Exchange on April 10, 2018 pursuant to Commentary .01 to NYSE Arca Rule 8.600-E.

<sup>5</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-1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser 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 Rule 5.2-E(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>6</sup> The Trust is registered under the 1940 Act. On June 28, 2018, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"), and under the 1940 Act relating to the Fund (File Nos. 333-222469 and 811-23324) ("Registration Statement"). The Trust will file an amendment to the Registration Statement as necessary to conform to the representations in this filing. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 31095 (June 24, 2014) (File No. 812-14267).

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

broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Commentary .06 to Rule 8.600-E is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2-E(j)(3); however, Commentary .06 in connection with the establishment and maintenance of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds.

The Adviser and the Subadviser are not registered as broker-dealers but are affiliated with PIMS, a broker-dealer, and have implemented and will maintain a "fire wall" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or the Subadviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a "fire wall" with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures, each designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### PGIM Active High Yield Bond ETF

##### Principal Investments

According to the Registration Statement, the investment objective of the Fund seeks to provide total return through a combination of current income and capital appreciation. The Fund seeks to achieve its investment objective by investing primarily in a portfolio of high yield bonds of companies and governments. Under normal market conditions,<sup>7</sup> the Fund

<sup>7</sup> The term "normal market conditions" is defined in NYSE Arca Rule 8.600-E(c)(5). In response to adverse market, economic or political conditions, the Fund may take a temporary defensive position and invest up to 100% of its assets in cash and money market instruments, which include shares of "Money Market Funds" (defined below); shares of affiliated short-term bond funds; short-term obligations of, or securities guaranteed by, the U.S. Government, its agencies or instrumentalities; high-

will invest at least 80% of its net assets in a diversified portfolio of high yield bonds and other investments consisting of (i) the Principal Investment Instruments (defined below) and (ii) derivatives<sup>8</sup> that (A) provide exposure to such Principal Investment Instruments, or (B) are used to enhance returns, manage portfolio duration, or manage the risk of securities price fluctuations, as further described below (together, the "Principal Investments").

The Fund may invest in "Principal Investment Instruments" consisting of the following fixed income instruments (each of which shall be denominated in U.S. dollars):

- fixed income instruments issued by the US Government, its agencies and instrumentalities;
- commercial paper;
- asset-backed securities;
- mortgage-backed securities,
- variable and floating rate instruments;
- bills, notes and other obligations issued by banks, corporations and other companies (including trust structures);
- convertible and non-convertible fixed income securities
- loan participations and assignments;
- obligations issued by non-U.S. banks, companies or non-U.S. governments;
- municipal bonds and notes;
- shares of "Money Market Funds";<sup>9</sup> and
- shares of the Prudential Core Ultra Short Bond Fund<sup>10</sup> or, if the Prudential

quality obligations of U.S. or foreign banks and corporations; or any other securities or instruments.

<sup>8</sup> The Fund's investments in derivatives will include investments in both listed derivatives and over-the-counter ("OTC") derivatives, as those terms are defined in Commentary .01(d) and (e) to NYSE Arca Rule 8.600-E.

<sup>9</sup> "Money Market Funds" include money market funds registered under the 1940 Act and money market funds that are not registered under the 1940 Act but that comply with Rule 2a-7 under the 1940 Act.

<sup>10</sup> The Prudential Core Ultra Short Bond Fund is a series of Prudential Investment Portfolios 2, which is an open-end investment company registered under the 1940 Act. Shares of the Prudential Core Ultra Short Bond Fund are available for purchase only by certain affiliated investment companies managed and certain other institutional investors. The Fund's Subadviser is also the subadviser to the Affiliated Short Term Bond Fund. The investment objective of the Prudential Core Ultra Short Bond Fund is to seek current income consistent with the preservation of capital and the maintenance of liquidity. Like Rule 2a-7 money market funds that are defined as cash equivalents pursuant to Commentary .01(c) to Rule 8.600-E, the Prudential Core Ultra Short Bond Fund invests primarily in money market obligations as defined by Rule 2a-7. Rule 2a-7 defines money market obligations as obligations that mature in 397 days or less. Additionally, the Prudential Core Ultra Short Bond Fund seeks investments that are expected to experience minimal fluctuations in

Core Ultra Short Bond Fund is no longer offered with the same investment objective, shares of any successor fund or other affiliated open-end investment company registered under the 1940 Act with a substantially similar investment objective (the "Affiliated Short Term Bond Fund").<sup>11</sup>

The Fund may hold cash and cash equivalents.<sup>12</sup>

The Fund may, without limitation, enter into dollar rolls and short sales of Principal Investment Instruments. The Fund may also purchase securities and other instruments under when-issued, delayed delivery, to be announced or forward commitment transactions. The Fund will "set aside" liquid assets or engage in other measures to "cover" open positions held in connection with the foregoing types of transactions, as well as derivative transactions.

The Fund may invest in derivatives to (i) provide exposure to the Principal Investment Instruments and (ii) enhance returns, manage portfolio duration, or (iii) manage the risk of securities price fluctuations. Derivatives that the Fund may enter into include only: OTC deliverable and non-deliverable foreign exchange forward contracts; listed futures contracts on one or more Principal Investment Instruments securities (including Treasury Securities and foreign government securities), indices relating to one or more Principal Investment Instruments, interest rates, financial rates and currencies; listed or OTC options (including puts or calls) or swaptions (*i.e.*, options to enter into a swap) on one or more Principal Investment Instruments, indices relating to one or more Principal Investment Instruments, interest rates, financial rates, currencies and futures contracts on one or more Principal Investment Instruments; and listed or OTC swaps (including total return swaps) on securities, indices relating to one or more Principal Investment Instruments, interest rates, financial rates, currencies and debt and credit default swaps on single names, baskets and indices on one or more Principal Investment

value. See the registration statement for the Prudential Core Ultra Short Bond Fund on Form N-1A, dated March 29, 2018 (File No. 811-09999), available at <https://www.sec.gov/Archives/edgar/data/1099692/000006759018000388/pip2posami.htm>.

<sup>11</sup> The Fund's investment in the Affiliated Short Term Bond Fund is described further in "Application of Generic Listing Requirements," *infra*.

<sup>12</sup> For purposes of this filing, the term "cash equivalents" includes the short-term instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600-E. Under normal market conditions, the Fund may invest a significant portion of its assets in cash and cash equivalents.

Instruments (both as protection seller and as protection buyer).

#### Other Investments

While the Fund, under normal market conditions, invests at least 80% of its investable assets in the Principal Investments described above, the Fund may invest its remaining assets in the following “Non-Principal Investments”.

The Fund may hold exchange-traded funds (“ETFs”) that provide exposure to Principal Investment Instruments.<sup>13</sup>

The Fund may hold convertible and non-convertible securities preferred stocks traded in the OTC market or listed on an exchange.

The Fund may hold warrants traded in the OTC market or listed on an exchange.

The Fund may hold “Work Out Securities,”<sup>14</sup> which may be acquired by the Fund incidental to the purchase or ownership of the Fund’s Principal Investments or in connection with a reorganization of an issuer.

The Fund may invest in securities and other instruments that would otherwise qualify as Principal Investment Instruments but for being denominated in non-U.S. currency.

#### Investment Restrictions

In addition to shares of the Affiliated Short Term Bond Fund or Money Market Funds referenced above in “Principal Investments”, the Fund may invest up to 10% of the total assets of the Fund in shares of other non-exchange-traded open-end management investment company securities, including investment company securities for which the Adviser and/or its affiliates may serve as investment adviser or administrator.

Not more than 10% of the Fund’s assets in the aggregate will be held in convertible and non-convertible preferred stocks, warrants and Work Out Securities.

#### Use of Derivatives by the Fund

The Fund may invest in the types of derivatives described in the “Principal Investments” section above to (i)

provide exposure to the Principal Investment Instruments,<sup>15</sup> (ii) enhance returns and manage portfolio duration, or (iii) manage the risk of securities price fluctuations. Investments in derivative instruments will be consistent with the Fund’s investment objective and policies.

To limit the potential risk associated with such transactions, the Fund may enter into offsetting transactions or segregate or “ earmark ” assets determined to be liquid by the Adviser in accordance with procedures established by the Trust’s Board of Trustees (the “Board”). In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund’s use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.

#### Impact on Arbitrage Mechanism

The Adviser and the Subadviser believe there will be minimal, if any, impact to the arbitrage mechanism as a result of the Fund’s use of derivatives. The Adviser and the Subadviser understand that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser and the Subadviser believe that the price at which Shares of the Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares of the Fund at their NAV, which should ensure that Shares of the Fund will not trade at a material discount or premium in relation to their NAV.

#### Creation and Redemption of Shares

The Fund issues and sells Shares only in aggregations of at least 25,000 Shares (each aggregation is called a “Creation Unit”) on a continuous basis through PIMS at the NAV next determined after receipt of an order in proper form on any Business Day.<sup>16</sup>

The consideration for a purchase of Creation Units generally will consist of a cash deposit but may include the in-kind deposit of a portfolio of securities and other investments (the “Deposit Instruments”) included in the Fund and

an amount of cash computed as described below (the “Cash Amount”). The Cash Amount together with the Deposit Instruments, as applicable, are referred to as the “Portfolio Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Cash Amount would be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the “Deposit Amount,” which is an amount equal to the aggregate market value of the Deposit Instruments, and serves to compensate for any differences between the NAV per Creation Unit and the Deposit Amount.

The Transfer Agent, through the National Securities Clearing Corporation (“NSCC”), makes available on each Business Day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.), the list of the names and the required number of securities for each Deposit Instrument to be included in the current Portfolio Deposit (based on information at the end of the previous Business Day), as well as information regarding the Cash Amount for the Fund. Such Portfolio Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

All orders to create Creation Units generally must be received by the Distributor no later than the closing time of the regular trading session on the Exchange (“Closing Time”) (ordinarily 4:00 p.m. E.T.) on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

In addition, the Trust reserves the right to accept a basket of securities or cash that differs from Deposit Instruments or to permit the substitution of an amount of cash (*i.e.*, a “cash in lieu” amount) to be added to the Cash Amount to replace any Deposit Instrument which may, among other reasons, not be available in sufficient quantity for delivery, not be permitted to be re-registered in the name of the Trust as a result of an in-kind creation order pursuant to local law or market convention or which may not be eligible for transfer through the Clearing Process (defined below), or which may not be eligible for trading by a Participating Party (defined below).

To be eligible to place orders with the Distributor to create Creation Units of the Fund, an entity or person either must be (1) a “Participating Party,” *i.e.*, a broker-dealer or other participant in

<sup>13</sup> For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Rule 5.2(j)(3)–E), Portfolio Depository Receipts (as described in NYSE Arca Rule 8.100–E), and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs in which the Fund invests will be listed and traded on national securities exchanges.

<sup>14</sup> For purposes of this filing, Work Out Securities include U.S. or foreign equity securities of any type acquired in connection with restructurings or incidental to the purchase or ownership related to issuers of Principal Investment Instruments held by the Fund. Work Out Securities are generally traded OTC, but may be traded on a U.S. or foreign exchange.

<sup>15</sup> Because the markets for the Principal Investment Instruments, or the Principal Investment Instruments themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure to Principal Investment Instruments.

<sup>16</sup> A “Business Day” with respect to the Fund is any day on which the Exchange is open for business.

the clearing process through the Continuous Net Settlement System of the NSCC (the "Clearing Process"); or (2) a DTC Participant; which, in either case, must have executed an agreement with the Distributor (as it may be amended from time to time in accordance with its terms) ("Participant Agreement"). A Participating Party and DTC Participant are collectively referred to as an "Authorized Participant."

A standard creation transaction fee is imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

#### Redemption of Creation Units

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by PIMS, only on a Business Day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. The Trust will not redeem Shares in amounts less than Creation Units. Beneficial owners also may sell Shares in the secondary market, but must accumulate enough Shares to constitute a Creation Unit in order to have such Shares redeemed by the Trust.

The Transfer Agent, through NSCC, makes available immediately prior to the opening of business on the Exchange on each Business Day, the identity of the Fund's securities and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. The Fund's securities received on redemption ("Redemption Instruments") may not be identical to Deposit Instruments that are applicable to creations of Creation Units. Unless cash redemptions are permitted or required for the Fund, the redemption proceeds for a Creation Unit generally consist of Redemption Instruments as announced by the Transfer Agent on the Business Day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Redemption Instruments, less the fixed transaction fee and any variable transaction fees.

In order to redeem Creation Units of the Fund, an Authorized Participant must submit an order to redeem for one or more Creation Units. An order to redeem Creation Units of a Fund using the Clearing Process generally must be submitted to the Distributor not later than 4:00 p.m. E.T. on the Business Day of the request for redemption in order for such order to be effected based on

the NAV of the Fund as next determined. An order to redeem Creation Units of the Fund using the NSCC Clearing Process made in proper form but received by the Fund after 4:00 p.m. E.T. will be deemed received on the next Business Day immediately following the day on which such order request is transmitted.

#### Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the changes described below would result in the portfolio for the Fund not meeting all of the "generic" listing requirements of Commentary .01 to NYSE Arca Rule 8.600-E applicable to the listing of Managed Fund Shares. The Fund's portfolio would meet all such requirements except for those set forth in Commentary .01(a)(1), Commentary .01(b)(4) and Commentary .01(b)(5).<sup>17</sup> Specifically, the Fund:

- Will not comply with the requirement in Commentary .01(b)(5) that investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities (*i.e.*, Private ABS/MBS) not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Instead, Private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.
- will not comply with the requirement that securities that in aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria in Commentary .01(b)(4).<sup>18</sup> Instead, fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund.
- may invest in shares of affiliated short-term bond funds, which are equity

<sup>17</sup> Commentary .01(b)(5) to NYSE Arca Rule 8.600-E provides that non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities components of a portfolio may not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

<sup>18</sup> Commentary .01(b)(4) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

securities. Therefore, to the extent the Fund invests in shares of affiliated short-term bond funds or other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600-E (U.S. Component Stocks) with respect to its equity securities holdings. Instead, such securities would not be required to meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600-E.<sup>19</sup>

- may invest in convertible and non-convertible preferred stocks, warrants, and Work Out Securities, which are equity securities. To the extent the Fund invests in such securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600-E (U.S. Component Stocks) and/or Commentary .01(a)(2) to NYSE Arca Rule 8.600-E (Non-U.S. Component Stocks) with respect to its equity securities holdings.<sup>20</sup> Instead, the

<sup>19</sup> Commentary .01(a) to Rule 8.600-E specifies the equity securities accommodated by the generic criteria in Commentary .01(a), namely, U.S. Component Stocks (as described in Rule 5.2-E(j)(3)) and Non-U.S. Component Stocks (as described in Rule 5.2-E(j)(3)). Commentary .01(a)(1) to Rule 8.600-E (U.S. Component Stocks) provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least \$75 million; (B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months; (C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934.

<sup>20</sup> Commentary .01(a)(2) to Rule 8.600-E (Non-U.S. Component Stocks) provides that the

Exchange proposes that not more than 10% of the Fund's assets in the aggregate will be held in convertible and non-convertible preferred stocks, warrants and Work Out Securities.

Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

As noted above, the Fund will not comply with the requirement in Commentary .01(b)(5) that investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities (*i.e.*, Private ABS/MBS) not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Instead, Private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.

This alternative requirement is appropriate because the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities. The Fund's investment in Private ABS/MBS will be subject to the Fund's liquidity procedures as adopted by the Board,

component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Non-U.S. Component Stocks each shall have a minimum market value of at least \$100 million; (B) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (C) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (E) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

and the Adviser does not expect that investments in Private ABS/MBS of up to 20% of the total assets of the Fund will have any material impact on the liquidity of the Fund's investments. The Exchange notes that the Commission has previously approved the listing of actively managed ETFs that can invest 20% of their total assets in non-U.S. Government, non-agency, non-GSE and other privately issued ABS and MBS (*i.e.*, Private ABS/MBS).<sup>21</sup> Thus, it is appropriate to expand the limit on the Fund's investments in Private ABS/MBS set forth in Commentary .01(b)(5) of the generic listing standards.

The Fund will not comply with the requirement that securities that in aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria in Commentary .01(b)(4).<sup>19</sup> Instead, fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund. The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies without imposing requirements that a certain percentage of such funds' securities meet one of the criteria set forth in Commentary .01(b)(4).<sup>22</sup> Thus, it is appropriate to expand the limit on investments in fixed income securities that do not satisfy the criteria in Commentary .01(b)(4) of the generic listing standards, as described above.

The Fund may invest in shares of the Affiliated Short Term Bond Fund, which are equity securities. Therefore,

<sup>21</sup> See, e.g., Securities Exchange Act Release Nos. 80946 (June 15, 2017) 82 FR 28126 (June 20, 2017) (SR-NASDAQ-2017-039) (permitting the Guggenheim Limited Duration ETF to invest up to 20% of its total assets in privately-issued, non-agency and non-GSE ABS and MBS); 76412 (November 10, 2015), 80 FR 71880 (November 17, 2015) (SR-NYSEArca-2015-111) (permitting the RiverFront Strategic Income Fund to invest up to 20% of its assets in privately-issued, non-agency and non-GSE ABS and MBS); 74814 (April 27, 2015), 80 FR 24986 (May 1, 2015) (SR-NYSEArca-2014-017) (permitting the Guggenheim Enhanced Short Duration ETF to invest up to 20% of its assets in privately-issued, non-agency and non-GSE ABS and MBS); 74109 (January 21, 2015), 80 FR 4327 (January 27, 2015) (SR-NYSEArca-2014-134) (permitting the IQ Wilshire Alternative Strategies ETF to invest up to 20% of its total assets in MSB and other ABS, without any limit on the type of such MBS and ABS).

<sup>22</sup> See, e.g., Securities Exchange Act Release Nos. 67894 (September 20, 2012) 77 FR 59227 (September 26, 2012) (SR-BATS-2012-033) (order approving the listing and trading of shares of the iShares Short Maturity Bond Fund); 70342 (September 6, 2013), 78 FR 56256 (September 12, 2013) (SR-NYSEArca-2013-71) (order approving the listing and trading of shares of the SPDR SSGA Ultra Short Term Bond ETF, SPDR SSGA Conservative Ultra Short Term Bond ETF and SPDR SSGA Aggressive Ultra Short Term Bond ETF).

to the extent the Fund invests in shares of the Affiliated Short Term Bond Fund or other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600-E (U.S. Component Stocks) with respect to its equity securities holdings. However, it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600-E.<sup>23</sup> Investments in shares of the Affiliated Short Term Bond Fund will not exceed 25% of the total assets of the Fund. Investments in other non-exchange-traded open-end management investment company securities will not exceed 10% of the total assets of the Fund. The Fund's investment in shares of the Affiliated Short Term Bond Fund will be utilized in order to obtain income on short-term cash balances while awaiting attractive investment opportunities, to provide liquidity in preparation for anticipated redemptions or for defensive purposes, which will allow the Fund to obtain the benefits of a more diversified portfolio available in the Affiliated Short Term Bond Fund than might otherwise be available through direct investments in Money Market Funds.<sup>24</sup> Moreover, such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in such securities only to the extent that those investments would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder.<sup>25</sup> Because such

<sup>23</sup> See note 19, *supra*.

<sup>24</sup> For purposes of this section of the filing, non-exchange-traded securities of other registered investment companies do not include money market funds, which are cash equivalents under Commentary .01(c) to Rule 8.600-E and for which there is no limitation in the percentage of the portfolio invested in such securities. In addition, the Commission has issued orders granting exemptive relief under the 1940 Act that apply to the Trust. See Investment Company Act Release No. 24179 (December 1, 1999) (File No. 812-11354) with respect to investments by a fund in money market or ultra-short bond funds for cash management purposes) and Investment Company Act Release No. 30200 (September 11, 2012) (File No. 812-13993) with respect to investments by a fund in other registered investment companies.

<sup>25</sup> The Commission has previously approved proposed rule changes under Section 19(b) of the Act for series of Managed Fund Shares that may invest in non-exchange traded investment company securities to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder.

securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that Commentary .01(a)(1)(A) through (D) to Rule 8.600–E exclude certain “Derivative Securities Products” that are exchange-traded investment company securities, including Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E)) and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E)).<sup>26</sup> In its 2008 Approval Order approving amendments to Commentary .01(a) to Rule 5.2(j)(3) to exclude Derivative Securities Products from certain provisions of Commentary .01(a) (which exclusions are similar to those in Commentary .01(a)(1) to Rule 8.600–E), the Commission stated that “based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations.” The Exchange notes that it would be difficult or impossible to

*See, e.g.,* Securities Exchange Act Release No. 78414 (July 26, 2016), 81 FR 50576 (August 1, 2016) (SR–NYSEArca–2016–79) (order approving listing and trading of shares of the Virtus Japan Alpha ETF under NYSE Arca Rule 8.600–E).

<sup>26</sup> The Commission initially approved the Exchange’s proposed rule change to exclude “Derivative Securities Products” (*i.e.*, Investment Company Units and securities described in Section 2 of Rule 8) and “Index-Linked Securities (as described in Rule 5.2–E(j)(6)) from Commentary .01(a)(A) (1) through (4) to Rule 5.2–E(j)(3) in Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units) (“2008 Approval Order”). *See also* Securities Exchange Act Release No. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units). The Commission subsequently approved generic criteria applicable to listing and trading of Managed Fund Shares, including exclusions for Derivative Securities Products and Index-Linked Securities in Commentary .01(a)(1)(A) through (D), in Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 7 Thereto, Amending NYSE Arca Rule 8.600–E To Adopt Generic Listing Standards for Managed Fund Shares). *See also* Amendment No. 7 to SR–NYSEArca–2015–110, available at <https://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-9.pdf>.

apply to mutual fund shares certain of the generic quantitative criteria (*e.g.*, market capitalization, trading volume, or portfolio criteria) in Commentary .01(A) through (D) applicable to U.S. Component Stocks. For example, the requirements for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months are tailored to exchange-traded securities (*i.e.*, U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market and for which no such volume information is reported. In addition, Commentary .01(a)(1)(A) relating to minimum market value of portfolio component stocks, Commentary .01(a)(1)(C) relating to weighting of portfolio component stocks, and Commentary .01(a)(1)(D) relating to minimum number of portfolio components are not appropriately applied to open-end management investment company securities; open-end investment companies hold multiple individual securities as disclosed publicly in accordance with the 1940 Act, and application of Commentary .01(a)(1)(A) through (D) would not serve the purposes served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies where such funds were permitted to invest in the shares of other registered investment companies that are not ETFs or money market funds.<sup>27</sup> Thus, it is appropriate to permit the Fund to invest up to 25% of its total assets in shares of the Affiliated Short Term Bond Fund and 10% of its total assets in other non-exchange-traded open-end management investment company securities.

To the extent the Fund invests in convertible and non-convertible preferred stocks, warrants and Work Out

<sup>27</sup> *See, e.g.,* Securities Exchange Act Release Nos. 79053 (October 5, 2016), 81 FR 70468 (October 12, 2016) (SR–BatsBZX–2016–35) (permitting the JPMorgan Global Bond Opportunities ETF to invest in “investment company securities that are not ETFs”); 74297 (February 18, 2015), 80 FR 9788 (February 24, 2015) (SR–BATS–2014–056) (permitting the U.S. Fixed Income Balanced Risk ETF to invest in “exchange traded and non-exchange traded investment companies (including investment companies advised by the Adviser or its affiliates) that invest in such Fixed Income Securities”).

Securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) and/or Commentary .01(a)(2) to NYSE Arca Rule 8.600–E (Non-U.S. Component Stocks) with respect to its equity securities holdings. The Exchange believes this is appropriate in that the Adviser represents that the Fund will not actively invest in such securities but may, at times, receive a distribution of such securities in connection with the Fund’s holdings in certain Principal Investment Instruments. Therefore, the Fund’s holdings in such securities would not be utilized to further the Fund’s investment objective and generally would not be acquired as the result of the Fund’s voluntary investment decisions. In addition, the Exchange proposes that not more than 10% of the Fund’s assets in the aggregate will be held in convertible and non-convertible preferred stocks, warrants and Work Out Securities.

The Exchange accordingly believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1), (a)(2), (b)(4) and (b)(5) to Rule 8.600–E. The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(4) and (b)(5) to Rule 8.600–E, the Fund’s portfolio will meet all other requirements of Rule 8.600–E.

#### Availability of Information

The Fund’s website ([www.pgiminvestments.com](http://www.pgiminvestments.com)) will include the prospectus for the Fund that may be downloaded. The Fund’s website will include additional quantitative information updated on a daily basis including, for the Fund, (1) daily trading volume, the prior Business Day’s reported closing price, NAV and midpoint of the bid/ask spread at the time of calculation of such NAV (the “Bid/Ask Price”),<sup>28</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each Business Day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund discloses on its

<sup>28</sup> The Bid/Ask Price of the Fund’s Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

website the Disclosed Portfolio as defined in NYSE Arca Rule 8.600–E(c)(2) that forms the basis for the Fund’s calculation of NAV at the end of the Business Day.<sup>29</sup>

On a daily basis, the Fund discloses the information required under NYSE Arca Rule 8.600–E(c)(2) to the extent applicable. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund’s Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. Authorized Participants may refer to the basket composition file for information regarding Principal Investment Instruments, and any other instrument that may comprise the Fund’s basket on a given day.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), the Fund’s Shareholder Reports, and the Fund’s Forms N–CSR and Forms N–SAR, filed twice a year. The Fund’s SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR, Form N–PX and Form N–SAR may be viewed on-screen or downloaded from the Commission’s website at [www.sec.gov](http://www.sec.gov).

Intra-day and closing price information regarding exchange-traded options will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding the Principal Investment Instruments also will be available from major market data vendors. Price information relating to OTC options and swaps will be available from major market data vendors. Intra-day price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. For exchange-listed securities (including ETFs), intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Intraday and other price information for the fixed income securities in which the Fund invests will be available through subscription services, such as Bloomberg, Markit and Thomson

Reuters, which can be accessed by Authorized Participants and other market participants. Additionally, the Trade Reporting and Compliance Engine (“TRACE”) of the Financial Industry Regulatory Authority (“FINRA”) will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS, to the extent transactions in such securities are reported to TRACE.<sup>30</sup> Money market funds and affiliated short-term bond funds are typically priced once each Business Day and their prices will be available through the applicable fund’s website or from major market data vendors. Electronic Municipal Market Access (“EMMA”) will be a source of price information for municipal bonds. Price information regarding U.S. government securities, repurchase agreements, reverse repurchase agreements and cash equivalents generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding the previous day’s closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (“CTA”) high-speed line. Exchange-traded options quotation and last sale information for options cleared via the Options Clearing Corporation are available via the Options Price Reporting Authority. In addition, the Portfolio Indicative Value (“PIV”), as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.

Price information for instruments that would otherwise qualify as Principal Investment Instruments but for being denominated in non-U.S. currency is

available from major market data vendors.

#### 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. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E 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. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

#### 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 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, 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.

With the exception of the requirements of Commentary .01(a)(1), Commentary .01(b)(4) and Commentary .01(b)(5) as described above under “Application of Generic Listing Requirements,” the Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. The Exchange represents that for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange has obtained a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and

<sup>29</sup> Under accounting procedures followed by the Fund, trades made on the prior Business Day (“T”) will be booked and reflected in NAV on the current Business Day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

<sup>30</sup> Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. For fixed income securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

the Disclosed Portfolio will be made available to all market participants at the same time.

#### 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 FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. 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, ETFs, certain exchange-traded options and certain futures with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs, certain exchange-traded options and certain futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs, certain exchange-traded options and certain futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (“CSSA”). The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board (“MSRB”) relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

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 portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing 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 Rule 5.5(m)–E.

#### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act 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 Rule 8.600–E. 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 federal securities laws applicable to trading on the Exchange. The Adviser and Subadviser are not registered as broker-dealers, but the Adviser and Subadviser are affiliated with a broker-dealer and have implemented and will maintain a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-traded options and certain futures 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, certain exchange-traded options and certain futures from

such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, certain exchange-traded options and certain futures with other markets and other entities that are members of the ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE. FINRA also can access data obtained from the MSRB relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The website for the Fund includes a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which trading in the Shares of the Fund may be halted. In addition, as noted above, investors have ready access to information regarding the Fund’s holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. In the aggregate, at least 90% of the weight of the Fund’s holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a CSSA. For purposes of calculating this limitation, a portfolio’s investment in listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.

As described above, deviations from the generic requirements of Commentary .01(a) are necessary for the

Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

As discussed above, the Fund will not comply with the requirement in Commentary .01(b)(5) that investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities (*i.e.*, Private ABS/MBS) not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Instead, Private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.

This alternative requirement is appropriate because the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities. The Fund's investment in Private ABS/MBS will be subject to the Fund's liquidity procedures as adopted by the Board, and the Adviser does not expect that investments in Private ABS/MBS of up to 20% of the total assets of the Fund will have any material impact on the liquidity of the Fund's investments. The Exchange notes that the Commission has previously approved the listing of actively managed ETFs that can invest 20% of their total assets in non-U.S. Government, non-agency, non-GSE and other privately issued ABS and MBS (*i.e.*, Private ABS/MBS).<sup>31</sup> Thus, it is appropriate to expand the limit on the Fund's investments in Private ABS/MBS set forth in Commentary .01(b)(5) of the generic listing standards.

The Fund will not comply with the requirement that securities that in aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria in Commentary .01(b)(4). Instead, fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund. The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and

strategies without imposing requirements that a certain percentage of such funds' securities meet one of the criteria set forth in Commentary .01(b)(4). Thus, it is appropriate to expand the limit on investments in fixed income securities that do not satisfy the criteria in Commentary .01(b)(4) of the generic listing standards, as described above.

The Fund may invest in shares of affiliated short-term bond funds, which are equity securities. Therefore, to the extent the Fund invests in shares of affiliated short-term bond funds or other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600-E (U.S. Component Stocks) with respect to its equity securities holdings. It is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600-E. The Fund's investment in the Affiliated Short Term Bond Fund will not exceed 25% of the total assets of the Fund. Investments in other non-exchange-traded open-end management investment company securities will not exceed 10% of the total assets of the Fund. The Fund's investment in shares of affiliated short-term bond funds will be utilized in order to obtain income on short-term cash balances while awaiting attractive investment opportunities, to provide liquidity in preparation for anticipated redemptions or for defensive purposes, which will allow the Fund to obtain the benefits of a more diversified portfolio available in the shares of affiliated short-term bond funds than might otherwise be available through direct investments in Money Market Funds. Moreover, such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in such securities only to the extent that those investments would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder. Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that it would be difficult or impossible to apply to mutual fund shares certain of the generic quantitative criteria (*e.g.*, market capitalization, trading volume, or portfolio criteria) in Commentary .01 (A) through (D) applicable to U.S. Component Stocks. For example, the requirements for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months are tailored to exchange-traded securities (*i.e.*, U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market and for which no such volume information is reported. In addition, Commentary .01(a)(1)(A) relating to minimum market value of portfolio component stocks, Commentary .01(a)(1)(C) relating to weighting of portfolio component stocks, and Commentary .01(a)(1)(D) relating to minimum number of portfolio components are not appropriately applied to open-end management investment company securities; open-end investment companies hold multiple individual securities as disclosed publicly in accordance with the 1940 Act, and application of Commentary .01(a)(1)(A) through (D) would not serve the purposes served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

To the extent the Fund invests in convertible and non-convertible preferred stocks, warrants and Work Out Securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600-E (U.S. Component Stocks) and/or Commentary .01(a)(2) to NYSE Arca Rule 8.600-E (Non-U.S. Component Stocks) with respect to its equity securities holdings. The Exchange believes this is appropriate in that the Adviser represents that the Fund will not actively invest in such securities but may, at times, receive a distribution of such securities in connection with the Fund's holdings in certain Principal Investment Instruments. Therefore, the Fund's holdings in such securities would not be utilized to further the Fund's investment objective and generally would not be acquired as the result of the Fund's voluntary investment decisions. In addition, the Exchange proposes that not more than 10% of the Fund's assets in the aggregate will be held in convertible and

<sup>31</sup>See note 21, *supra*.

non-convertible preferred stocks, warrants and Work Out Securities.

The Exchange accordingly believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1), (a)(2), (b)(4) and (b)(5) to Rule 8.600–E. The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(4) and (b)(5) to Rule 8.600–E, the Fund’s portfolio will meet all other requirements of Rule 8.600–E.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively managed ETF 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 relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors have ready access to information regarding the Fund’s holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

#### *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 actively managed ETF that principally holds fixed income securities 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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2018–82 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–2018–82. 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 website (<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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File

Number SR–NYSEArca–2018–82, and should be submitted on or before December 27, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018–26514 Filed 12–4–18; 8:45 am]

**BILLING CODE 8011–01–P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Investment Company Act Release No. 33309; File No. 812–14822]**

### **American Fidelity Assurance Company, et al.**

November 29, 2018.

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

**ACTION:** Notice.

Notice of application for an order approving the substitution of certain securities pursuant to section 26(c) of the Investment Company Act of 1940, as amended (the “1940 Act”).

**APPLICANTS:** American Fidelity Assurance Company (the “Insurance Company”), American Fidelity Separate Account B and American Fidelity Separate Account C (each, a “Separate Account” and together, the “Separate Accounts”). Together, the Insurance Company and the Separate Accounts are referred to as the “Applicants.”

**SUMMARY OF APPLICATION:** Applicants seek an order pursuant to section 26(c) of the 1940 Act approving the substitution of shares of American Funds IS Blue Chip Income and Growth Fund (the “American Funds Blue Chip Fund”) and Dreyfus VIF Opportunistic Small Cap Portfolio (the “Dreyfus Small Cap Fund,” and together with the American Funds Blue Chip Fund, the “Replacement Funds”), respectively, for shares of BlackRock Basic Value V.I. Fund (the “BlackRock Basic Value Fund”), and BlackRock Advantage U.S. Total Market V.I. Fund (the “BlackRock Total Market Fund,” and together with the BlackRock Basic Value Fund, the “Existing Funds”), respectively, held by the Separate Accounts (the “Substitution”), to support the Separate Accounts’ variable annuity contracts (each, a “Contract” and collectively, the “Contracts”) that are issued by the Insurance Company.

**FILING DATES:** The application was filed on September 26, 2017, and amended

<sup>32</sup> 17 CFR 200.30–3(a)(12).