November 30, 2010,[5] but the Commission has not yet taken action with respect to the Permanent Rule Change. Accordingly, the Exchange proposes to extend the pilot for an additional six months, until May 31, 2011, so that the system change will remain in effect while the Commission continues to evaluate the Permanent Rule Change.[6]

2. Basis

The basis under the Exchange Act for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Extension of the pilot program will allow the Exchange to continue operating under the pilot while the Commission considers the Permanent Rule Change.

B. Self-Regulatory Organization's Statement on Burden on Competition

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

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act[7] and Rule 19b–4(f)(5)[8] thereunder. At any time within 60 days of the filing of the proposed 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or 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 Exchange 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.* Please include File No. SR–ISE–2010–110 in 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–ISE–2010–110. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2010–110 and should be submitted by December 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–29894 Filed 11–26–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63349; File No. SR–NYSEArca–2010–103]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Jefferies S&P 500® VIX Short-Term Futures ETF

November 19, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on November 9, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the Jefferies S&P 500® VIX Short-Term Futures ETF under NYSE Arca Equities Rule 8.200. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

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.

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[5] *See* Securities Exchange Act Release No. 60956 (November 6, 2009), 74 FR 58674 (November 13, 2009) (Notice of Filing and Immediate Effectiveness of SR–ISE–2009–93).

[6] The ISE anticipated that extension of the pilot might be necessary and included this in the filing for the initial pilot. *See supra* note 3, at footnote 5.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(5).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 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

NYSE Arca Equities Rule 8.200, Commentary .02, permits the trading of Trust Issued Receipts ("TIRs") either by listing or pursuant to unlisted trading privileges ("UTP").[3] The Exchange proposes to list and trade shares ("Shares") of the Jefferies S&P 500® VIX Short-Term Futures ETF ("Fund") pursuant to NYSE Arca Equities Rule 8.200.[4] The Fund is a commodity pool and a Delaware statutory trust.[5]

Overview of the Fund

According to the Registration Statement, the Fund seeks to track changes, whether positive or negative, in the level of the S&P 500 VIX Short-Term Futures™ Index ER ("VIX Futures Index" or "Index") over time.[6] The Fund will pursue its investment objective primarily by maintaining long futures positions corresponding to the futures contracts underlying the VIX Futures Index which trade on the CBOE Futures Exchange ("CFE") ("VIX Futures Contracts"),[7] with an aggregate notional amount equal to the Fund's total capital. In certain circumstances, as described below, the Fund may invest in one or more forward agreements or swaps ("Futures-Linked Investments"). The Fund is also intended to reflect the excess, if any, of its interest income from its investment in U.S. Treasury bills, generally with a maturity of less than one year, and other high credit quality short-term fixed-income securities, over its expenses.[8]

Jefferies Commodity Investment Services, LLC, a Delaware limited liability company, is the Fund's promoter, and will serve as Managing Owner of the Fund. The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission and is a member of the National Futures Association. The Bank of New York Mellon ("Administrator") will be the administrator, custodian and transfer agent of the Fund.

According to the Registration Statement, the Index is designed to provide an exposure to one or more maturities of futures contracts on the CBOE Volatility Index ("Volatility Index"), which reflect implied volatility in the S&P 500® Index at various points along the volatility forward curve. The Volatility Index is calculated based on the prices of put and call options on the S&P 500® Index. The VIX Futures Index is intended to reflect the returns that are potentially available through an unleveraged investment in the relevant futures contract or contracts on the Volatility Index.

The Index measures the return from a daily rolling long position in the first and second month VIX Futures Contracts, targeting a constant weighted average futures maturity of one month. The Fund will acquire and roll long positions in the first and second month VIX Futures Contracts with a view to tracking the level of the Index over time. The Fund will both roll and rebalance its holdings of VIX Futures Contracts in a manner consistent with the method described in the Registration Statement.

The Index is comprised of, and the value of the Shares will be based on, VIX Futures Contracts. VIX Futures Contracts are measures of the market's expectation of the level of the Volatility Index at certain points in the future, and may diverge from current, or spot, Volatility Index values. The Fund is not linked to the Volatility Index, and the value of the Index and the Shares may diverge significantly from the Volatility Index.

The Fund does not intend to outperform the Index. The Managing Owner will seek to cause the net asset value ("NAV") of the Fund to track the Index during periods in which the Index is flat or declining as well as when the Index is rising.

According to the Registration Statement, the Fund seeks to achieve its investment objective by investing under normal market conditions in VIX Futures Contracts. In the event the Fund reaches its position accountability rules with respect to VIX Futures Contracts, the Managing Owner, may, in its commercially reasonable judgment, cause the Fund to invest in a Futures-Linked Investment referencing the particular VIX Futures Contracts, or invest in other futures contracts or a Futures-Linked Investment not based on the particular VIX Futures Contracts if such instruments tend to exhibit trading prices or returns that correlate with the VIX Futures Index or any VIX Futures Contract and will further the investment objective of the Fund.[9] The Fund may also invest in Futures-Linked Investments if the market for a specific futures contract experiences emergencies (*e.g.,* natural disaster, terrorist attack or an act of God) or disruptions (*e.g.,* a trading halt or a flash crash) to prevent the Fund from obtaining the appropriate amount of investment exposure to the affected VIX Futures Contract directly or other futures contract.[10]

The Fund will hold a portfolio of VIX Futures Contracts as well as cash and U.S. Treasury bills, generally with a maturity of less than one year, and other high credit quality short-term fixed-income securities for deposit with the Fund's Clearing Broker as margin. The Fund's portfolio will be traded with a view to tracking the Index, whether the Index is rising, falling or flat over any particular period. The Fund is not

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

[4] The Commission previously has approved listing on the Exchange under Commentary .02 to NYSE Arca Equities Rule 8.200 of certain securities issuers. *See, e.g.,* Securities Exchange Act Release Nos. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91) (order granting accelerated approval to list on NYSE Arca of 14 ProShares funds); and 58983 (November 20, 2008), 73 FR 73368 (December 2, 2008) (SR–NYSEArca–2008–126) (order granting accelerated approval to list on NYSE Arca the GreenHaven Continuous Commodity Index Fund). *See also* Securities Exchange Act Release No. 58968 (November 17, 2008), 73 FR 71082 (November 24, 2008) (SR–NYSEArca–2008–111) (order granting accelerated approval of proposed rule change to amend NYSE Arca Equities Rule 5.2(j)(6)(v) to add CBOE Volatility Index Futures to the definition of Futures Reference Asset).

[5] The Fund has filed a Pre-Effective Amendment No. 3 to Form S–1 registration statement under the Securities Act of 1933, dated August 17, 2010 (File No. 333–166283) ("Registration Statement"). The description of the Fund and the Shares contained herein are based on the Registration Statement.

[6] The VIX Futures Index was created by Standard & Poor's Financial Services, LLC ("Index Sponsor"). The VIX Futures Index is the excess return version of the S&P 500 VIX Short-Term Futures™ Index. The Index Sponsor has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index.

[7] As of June 14, 2010, there was VIX Futures Contracts open interest of 88,366 contracts with a contract price of $25.55 and value of open interest of $2,257,751,300. Total CFE trading volume in 2009 in VIX Futures Contracts was 1,143,612 contracts, with average daily volume of 4538 contracts. Total volume year-to-date (through May 31, 2010) is 1,399,709 contracts, with average daily volume of 13,458 contracts. (*Source:* Bloomberg and CBOE).

[8] Terms relating to the Fund, the Shares and the Index referred to, but not defined, herein are defined in the Registration Statement.

[9] To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house.

[10] According to the Registration Statement, the Managing Owner will also attempt to mitigate the Fund's credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of a counterparty. The Managing Owner will take various steps to limit counterparty credit risk, as described in the Registration Statement.

"managed" by traditional methods, which typically involve effecting changes in the composition of the Fund's portfolio on the basis of judgments relating to economic, financial and market considerations with a view to obtaining positive results under all market conditions.

According to the Registration Statement, the Shares are designed to reflect as closely as possible the changes, whether positive or negative, in the level of the VIX Futures Index over time, through the Fund's portfolio of VIX Futures Contracts, and/or, if applicable, Futures-Linked Investments that reference the VIX Futures Index. The value of the Shares relates directly to the changes in market value, whether positive or negative, of the Fund's portfolio of VIX Futures Contracts and the value of the Fund's portfolio of U.S. Treasury bills, generally with a maturity of less than one year, and other high credit quality short-term fixed-income securities, less the liabilities (including estimated accrued but unpaid expenses) of the Fund.

The Volatility Index

According to the Registration Statement, the Volatility Index is a benchmark index designed to estimate expected volatility in large cap U.S. stocks over 30 days in the future by averaging the weighted prices of certain put and call options on the S&P 500® Index. During periods of market instability, the implied level of volatility of the S&P 500® Index typically increases and, consequently, the prices of options linked to the S&P 500® Index typically increase (assuming all other relevant factors remain constant or have negligible changes). This, in turn, causes the level of the Volatility Index to increase. Because the Volatility Index may increase in times of uncertainty, the Volatility Index is commonly known as the "fear gauge" of the broad U.S. equities market. The Volatility Index has historically had negative correlations to the S&P 500® Index.

The calculation of the Volatility Index involves a formula that uses the prices of a weighted series of out-of-the money put and call options on the level of the S&P 500® Index ("SPX Options"), with two adjacent expiry terms to derive a constant 30-day forward measure of market volatility. The Volatility Index is calculated independent of any particular option pricing model and in doing so seeks to eliminate any biases which may otherwise be included in using options pricing methodology based on certain assumptions.

According to the Registration Statement, although the Volatility Index measures the 30-day forward volatility in the S&P 500® Index as implied by the SPX Options, 30-day options are only available once a month. To arrive at the Volatility Index level, a broad range of out-of-the money SPX Options expiring on the two closest nearby months ("near term options" and "next term options," respectively) are selected in order to bracket a 30-day calendar period. SPX Options having a maturity of less than eight days are excluded at the outset and, when the near term options have eight days or less left to expiration, the Volatility Index rolls to the second and third contract months in order to minimize pricing anomalies that occur close to expiration. The model-free implied volatility using prices of the near term options and next term options are then calculated on a strike price weighted-average basis in order to arrive at a single average implied volatility value for each month. The results of each of the two months are then interpolated to arrive at a single value with a constant maturity of 30 days to expiration. Futures on the Volatility Index were first launched for trading by the CBOE in 2004. Volatility Index futures have expirations ranging from the front month consecutively out to the tenth month.

The VIX Futures Index is composed of one or more futures contracts on the Volatility Index. OTC derivatives and various types of electronic trading facilities and markets may offer investments linked to the Volatility Index. At present, all of the contracts included in the VIX Futures Index are exchange-traded futures contracts.

The VIX Futures Index is a rolling Index, which rolls on a daily basis. One of the effects of daily rolling is to maintain a constant weighted average maturity for the underlying futures contracts. The VIX Futures Index is composed of rolling first and second month futures contracts on the Volatility Index. Unlike equities, which typically entitle the holder to a continuing stake in a corporation, futures contracts normally specify a certain date for the delivery of the underlying asset or financial instrument or, in the case of futures contracts relating to indices such as the Volatility Index, a certain date for payment in cash of an amount determined by the level of the underlying index. The VIX Futures Index operates by selling futures contracts on the Volatility Index on a daily basis, specifying cash settlement on a nearby date and purchasing futures contracts on the Volatility Index on a daily basis specifying cash settlement on a later date. The roll for each VIX Futures Contract occurs on each index business day according to a pre-determined schedule that has the effect of keeping constant the weighted average maturity of the relevant VIX Futures Contract. This process is known as "rolling" a futures position, and the VIX Futures Index is a "rolling index." The constant weighted average maturity for the futures contracts underlying the VIX Futures Index is one month.[11]

Because the Index incorporates this process of rolling futures positions on a daily basis, and the Fund, in general, also rolls its positions on a daily basis, the daily roll is not anticipated to be a significant source of tracking error between the Fund and its Index. The Index is based on VIX Futures Contracts and not the Volatility Index, and as such neither the Fund nor the Index are expected to track the Volatility Index.

Creation and Redemption of Shares

The Fund creates and redeems Shares from time-to-time in one or more Baskets. A Basket is a block of 20,000 Shares. Baskets may be created or redeemed only by Authorized Participants, except that the initial Baskets in the Fund will be created by the Initial Purchaser. Except when aggregated in Baskets, the Shares are not redeemable securities. Authorized Participants pay a transaction fee in connection with each order to create or redeem a Basket.

The total cash payment required to create each Basket is the NAV of 20,000 Shares on the purchase order date.[12] Baskets are issued as of noon, E.T., on the business day immediately following the purchase order date at the applicable NAV per Share on the purchase order date, but only if the required payment has been timely received. Purchase and redemption orders must be placed by noon, E.T.

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place an order with the Managing Owner to redeem one or more Baskets.

[11] It is anticipated that, near expiration, the performance of a VIX Futures Contract will be close to that of the Volatility Index, while longer term futures (not close to expiration) reflect the long term expectations of the value of the Volatility Index plus a risk premium and may not closely track the performance of the Volatility Index. The Exchange notes that the Fund seeks results that match the performance of the VIX Futures Index and should not be expected to match the performance of the Volatility Index.

[12] E-mail from Michael Cavalier, Chief Counsel, NYSE Euronext, to Edward Y. Cho, Special Counsel, Division of Trading and Markets, Commission, dated November 15, 2010 ("Exchange Confirmation").

The redemption proceeds from the Fund consist of the cash redemption amount. The cash redemption amount is equal to the NAV of the number of Baskets of the Fund requested in the Authorized Participant's redemption order on the redemption order date.

Availability of Information Regarding the Shares

The NAV for the Fund will be calculated by the Administrator once a day at or after 4:15 p.m., E.T., and will be disseminated daily to all market participants at the same time.[13] The Exchange will make available on its Web site daily trading volume of each of the Shares, closing prices of such Shares, and number of Shares outstanding.

The closing prices and settlement prices of VIX Futures Contracts are also readily available from the Web sites of the CFE, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Complete real-time data for VIX Futures Contracts is available by subscription from Reuters and Bloomberg. The CFE also provides delayed futures information on current and past trading sessions and market news free of charge on its Web site (*http://www.cfe.cboe.com*). The specific contract specifications for VIX Futures Contracts are also available on such Web sites, as well as other financial informational sources. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Fund's Web site at *http://www.jamfunds.com/jcis* will display the end of day closing Index levels and NAV. The level of the Volatility Index as calculated by CBOE, updated every 15 seconds from 9:30 a.m. to 4:15 p.m., E.T., is disseminated on the CBOE Web site at *http://www.cboe.com* and through major market data vendors.

The Fund will provide Web site disclosure of portfolio holdings daily and will include, as applicable, the names and value (in U.S. dollars) of VIX Futures Contracts, Futures-Linked Investments and other futures contracts, if any, and characteristics of such investments and cash equivalents, and amount of cash held in the portfolio of the Fund. This Web site disclosure of the portfolio composition of the Fund will occur at the same time as the disclosure by the Managing Owner of the portfolio composition to Authorized Participants so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current portfolio composition of the Fund through the Fund's Web site.

Dissemination of Indicative Trust Value and Index Value

In addition, in order to provide updated information relating to the Fund for use by investors and market professionals, an updated Indicative Trust Value ("ITV") will be calculated. The ITV is calculated by using the prior day's closing NAV per share of the Fund as a base and updating that value throughout the NYSE Arca Core Trading Session of 9:30 a.m. to 4 p.m. E.T. each trading day to reflect current changes in the value of VIX Futures Contracts held by the Fund, as well as the value of any swap or forward contracts and other futures contracts held by the Fund. The ITV disseminated during the Core Trading Session should not be viewed as an actual real-time update of the NAV, which is calculated only once a day.

The ITV will be disseminated on a per-Share basis by one or more major market data vendors every 15 seconds during the Core Trading Session. In addition, the end-of-day NAV of the Fund will be disseminated once a day.

The Exchange believes that dissemination of the ITV provides additional information regarding the Fund that is not otherwise available to the public and is useful to professionals and investors in connection with the related Shares trading on the Exchange or the creation or redemption of such Shares.

The Index Sponsor will publish the daily closing level of the VIX Futures Index as of the close of the NYSE Arca Core Trading Session. The Managing Owner will publish the NAV of the Fund and the NAV per Share daily. The Index Sponsor will publish the intra-day level of the VIX Futures Index updated every 15 seconds during the NYSE Arca Core Trading Session on the consolidated tape, Reuters and/or Bloomberg, and the Managing Owner will publish the ITV per Share once every 15 seconds during the NYSE Arca Core Trading Session on the Managing Owner's Web site at *http://www.jamfunds.com/jcis*.[14]

The current trading price per Share will be published continuously as trades occur during the NYSE Arca Core Trading Session on the consolidated tape, Reuters and/or Bloomberg and on the Managing Owner's Web site. The most recent end-of-day Index closing level will be published as of the close of the NYSE Arca Core Trading Session each trading day on the consolidated tape, Reuters and/or Bloomberg and on the Managing Owner's Web site. The most recent end-of-day NAV of the Fund will be published on Reuters and/or Bloomberg and on the Managing Owner's Web site. In addition, the most recent end-of-day NAV of the Fund will be published the following morning on the consolidated tape. All of the foregoing information with respect to the VIX Futures Index will also be published at *http://www.cfe.cboe.com.*

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on ETP Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. See "Surveillance" below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading 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

[13] According to the Registration Statement, net asset value means the total assets of the Fund including, but not limited to, all cash and cash equivalents or other debt securities less total liabilities of the Fund, each determined on the basis of generally accepted accounting principles in the United States, consistently applied under the accrual method of accounting.

[14] *See* Exchange Confirmation, *supra* note 12.

include: (1) The extent to which trading is not occurring in the underlying futures contracts; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule [15] or by the halt or suspension of trading of the underlying futures contracts.

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

The Fund will meet the initial and continued listing requirements applicable to Trust Issued Receipts in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. With respect to application of Rule 10A–3 under the Act,[16] the Trust relies on the exception contained in Rule 10A–3(c)(7).[17] A minimum of 100,000 Shares of the Fund will be outstanding as of the start of trading on the Exchange.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including Trust Issued Receipts, to monitor trading in the Shares. 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 applicable Federal securities laws.

The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. 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 is able to obtain information regarding trading in the Shares, or options, futures or options on futures on, Shares through ETP Holders, in connection with such ETP Holders' proprietary or customer trades through ETF Holders which they effect on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the exchanges that are members of the Intermarket Surveillance Group ("ISG"), including CBOE and CFE. A list of ISG members is available at *http://www.isgportal.org*.[18]

In addition, with respect to Fund components traded on exchanges, not more than 10% of the weight of such components in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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

Information Bulletin

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

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over futures contracts traded on U.S. markets.

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

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5),[20] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will permit the listing of an additional issuance of Trust Issued Receipts on the Exchange that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in Rule 8.200 are intended to protect investors and the public interest.

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 purposes of the Act.

[15] *See* NYSE Arca Equities Rule 7.12.

[16] 17 CFR 240.10A–3.

[17] 17 CFR 240.10A–3(c)(7).

[18] The Exchange notes that not all investments held by the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

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 e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2010–103 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–NYSEArca–2010–103. 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 Reference Room, 100 F Street, NE., Washington, DC 20549–1090 on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the Exchange's principal office. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2010–103 and should be submitted on or before December 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–29906 Filed 11–26–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63350; File No. SR–Phlx–2010–156]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program Concerning Disseminated Quotations

November 19, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4[2] thereunder, notice is hereby given that on November 10, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rules 1017, Openings in Options, and 1082, Firm Quotations, to extend, through March 31, 2011, a pilot program (the "pilot") under which the Exchange's rules describe the manner in which the PHLX XL® automated options trading system[3] disseminates quotations when (i) there is an opening imbalance in a particular series, and (ii) there is a Quote Exhaust (as described below) or a Market Exhaust (as described below) quote condition present in a particular series.

The current pilot is scheduled to expire November 30, 2010.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to extend the pilot through March 31, 2011.

Background

In June, 2009, the Exchange added several significant enhancements to its automated options trading platform (now known as PHLX XL), and adopted rules to reflect those enhancements.[4] As part of the system enhancements, the Exchange proposed to disseminate a "non-firm" quote condition on a bid or offer whose size is exhausted in certain situations. The non-exhausted side of

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[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This proposal refers to "PHLX XL" as the Exchange's automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as "Phlx XL II." *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from "Phlx XL II" to "PHLX XL" for branding purposes.

[4] *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32).