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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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–BX–2013–023, and should be submitted on or before April 23, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07591 Filed 4–1–13; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69244; File No. SR–NYSEArca–2013–08]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of the SPDR Blackstone/GSO Senior Loan ETF Under NYSE Arca Equities Rule 8.600

March 27, 2013.

I. Introduction

On January 24, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the SPDR Blackstone/GSO Senior Loan ETF (''Fund''). The proposed rule change was published for comment in the **Federal Register** on February 13, 2013.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares will be offered by SSgA Active ETF Trust (''Trust''), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company.[4] SSgA Funds Management, Inc. (''Adviser'') serves as the investment adviser to the Fund. GSO/Blackstone Debt Funds Management LLC will serve as sub-adviser (''Sub-Adviser'')[5] to the Blackstone/GSO Senior Loan Portfolio (''Portfolio'') and the Fund, subject to supervision by the Adviser and the Trust's Board of Trustees (''Board''). State Street Global Markets, LLC will be the principal underwriter and distributor of the Fund's Shares, and State Street Bank and Trust Company (''Custodian'') will serve as administrator, custodian, and transfer agent for the Fund.

SPDR Blackstone/GSO Senior Loan ETF

The investment objective of the Fund is to provide current income consistent with the preservation of capital. Under normal market conditions,[6] the Fund will invest all of its assets in the shares of the Portfolio, a separate series of the SSgA Master Trust with an identical investment objective as the Fund. As a result, the Fund will invest indirectly through the Portfolio.

According to the Exchange, in pursuing its investment objective, the Fund, under normal market conditions, will seek to outperform a primary and secondary loan index (as described below) by investing at least 80% of its net assets (plus any borrowings for investment purposes) in ''Senior Loans.''[7] The S&P/LSTA U.S. Leveraged Loan 100 Index (''Primary Index'') comprises the 100 largest Senior Loans, as measured by the borrowed amounts outstanding.[8] The Markit iBoxx USD Leveraged Loan Index (''Secondary Index'') selects the 100 most liquid Senior Loans in the market.[9] In addition to size, liquidity is also measured, in part, based on the number of market makers who trade a specific Senior Loan and the number and size of transactions in the context of the prevailing bid/offer spread.

The Fund will not seek to track either the Primary or Secondary Index, but rather will seek to outperform those indices. In doing so, the Sub-Adviser represents that the Portfolio will primarily invest in Senior Loans.[10] The Portfolio intends to hold a large percentage of the components of the Primary and Secondary Indices. It is

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68862 (February 7, 2013), 78 FR 10233 (''Notice'').

[4] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On April 1, 2011, the Trust filed with the Commission Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund (File Nos. 333–173276 and 811–22542) (''Registration Statement''). In addition, the Exchange represents that the Trust has obtained certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 29524 (December 13, 2010) (File No. 812–13487) (''Exemptive Order'').

[5] The Exchange represents that, in the event (a) the Adviser or Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[6] The terms ''under normal market conditions'' or ''under normal market circumstances'' include, but are not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; of operational issues causing dissemination of inaccurate market information; or of force-majeure-type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance. In periods of extreme market disturbance, the Fund may take temporary defensive positions by overweighting its portfolio in cash/cash-like instruments; however, to the extent possible, the Sub-Adviser would continue to seek to achieve the Fund's investment objective. Specifically, the Portfolio and Fund would continue to invest in Senior Loans. In response to prolonged periods of constrained or difficult market conditions, the Sub-Adviser will likely focus on investing in the largest and most liquid loans available in the market.

[7] A detailed discussion of Senior Loans and the Senior Loan market can be found in the Notice, *supra* note 3, 78 FR at 10238–39.

[8] The ''Primary Index Committee,'' composed of employees of Standard & Poor's, Inc. (''S&P''), maintains the Primary Index. *See id.* at 10240.

[9] The oversight committee of the Markit iBoxx USD Leveraged Loans Indices (''Oversight Committee'') conducts an annual review of the loan market and the index rules relating to the Secondary Index. *See id.* at 10241. A detailed discussion of the Primary Index and Secondary Index can be found in the Notice, *supra* note 3, 78 FR at 10239–42.

[10] The Sub-Adviser represents that, in general, the Portfolio (*i.e.,* the master fund) is where investments will be held, which investments will primarily consist of Senior Loans and may, to a lesser extent, include ''other investments'' as described below. The Fund (*i.e.,* the feeder fund) will invest in shares of the Portfolio and will not invest in other investments, but may be exposed to such investments by means of the Fund's investment in shares of the Portfolio. In extraordinary instances, the Fund reserves the right to make direct investments in Senior Loans and other investments.

anticipated that the Portfolio, in accordance with its principal investment strategy, will invest approximately 50% to 75% of its net assets in Senior Loans that are eligible for inclusion and meet the liquidity thresholds of the Primary and/or the Secondary Indices. Each of the Portfolio's Senior Loan investments is expected to have no less than $250 million USD par outstanding.

The Sub-Adviser considers Senior Loans to be first lien senior secured floating rate bank loans. A Senior Loan is an advance or commitment of funds made by one or more banks or similar financial institutions to one or more corporations, partnerships, or other business entities and typically pays interest at a floating or adjusting rate that is determined periodically at a designated premium above a base lending rate, most commonly the London-Interbank Offered Rate. A Senior Loan is considered senior to all other unsecured claims against the borrower and senior to or pari passu with all other secured claims, meaning that in the event of a bankruptcy, the Senior Loan, together with other first lien claims, is entitled to be the first to be repaid out of proceeds of the assets securing the loans before other existing unsecured claims or interests receive repayment. However, in bankruptcy proceedings, there may be other claims, such as taxes or additional advances which take precedence.[11]

According to the Exchange, the Portfolio will invest in Senior Loans that are made predominantly to businesses operating in North America, but may also invest in Senior Loans made to businesses operating outside of North America. The Portfolio may invest in Senior Loans directly, either from the borrower as part of a primary issuance or in the secondary market through assignments of portions of Senior Loans from third parties or participations in Senior Loans, which are contractual relationships with an existing lender in a loan facility whereby the Portfolio purchases the right to receive principal and interest payments on a loan, but the existing lender remains the record holder of the loan. Under normal market conditions, the Portfolio expects to maintain an average interest rate duration of less than 90 days.

In selecting securities for the Portfolio, the Sub-Adviser will seek to construct a portfolio of loans that it believes is less volatile than the general loan market. In addition, when making investments, the Sub-Adviser will seek to maintain appropriate liquidity and price transparency for the Portfolio. On an on-going basis, the Sub-Adviser will add or remove those individual loans that it believes will cause the Portfolio to outperform or underperform, respectively, either the Primary or Secondary Index.

When identifying prospective investment opportunities in Senior Loans, the Sub-Adviser currently intends to invest primarily in Senior Loans that are below investment grade quality and will rely on fundamental credit analysis in an effort to attempt to minimize the loss of the Portfolio's capital.[12] The Sub-Adviser expects to invest in Senior Loans or other debt of companies possessing the attributes described below, which it believes will help generate higher risk adjusted total returns. The Sub-Adviser does not intend to purchase Senior Loans that are in default; however, the Portfolio may hold a Senior Loan that has defaulted subsequent to its purchase by the Portfolio.

The Sub-Adviser intends to invest in Senior Loans or other debt of companies that it believes have developed strong positions within their respective markets and exhibit the potential to maintain sufficient cash flows and profitability to service their obligations in a range of economic environments. The Sub-Adviser will seek Senior Loans or other debt of companies that it believes possess advantages in scale, scope, customer loyalty, product pricing, or product quality versus their competitors, thereby minimizing business risk and protecting profitability.

The Sub-Adviser intends to invest primarily in Senior Loans or other debt of established companies which have demonstrated a record of profitability and cash flows over several economic cycles. The Sub-Adviser believes such companies are well-positioned to maintain consistent cash flow to service and repay their obligations and maintain growth in their businesses or market share. The Sub-Adviser does not intend to invest in Senior Loans or other debt of primarily start-up companies, companies in turnaround situations, or companies with speculative business plans.

The Sub-Adviser intends to focus on investments in which the Senior Loans or other debt of a target company has an experienced management team with an established track record of success. The Sub-Adviser will typically require companies to have in place proper incentives to align management's goals with the Portfolio's goals.

The Sub-Adviser will seek to invest in Senior Loans or other debt broadly among companies and industries, thereby potentially reducing the risk of a downturn in any one company or industry having a disproportionate impact on the value of the Portfolio's holdings. However, as a result of its investment in participations in loans and the fact that originating banks may be deemed issuers of loans, the Portfolio may be deemed to concentrate its investments in the financial services industries. Loans, and the collateral securing them, are typically monitored by agents for the lenders, which may be the originating bank or banks.[13]

The Portfolio and the Fund are expected to be managed in a ''master-feeder'' structure, under which the Fund, under normal market conditions, will invest all of its assets in the Portfolio, the corresponding ''master fund,'' which is a separate 1940 Act-registered mutual fund that has an identical investment objective. As a result, the Fund (*i.e.,* a ''feeder fund'') has an indirect interest in all of the securities owned by the Portfolio. Because of this indirect interest, the Fund's investment returns should be the same as those of the Portfolio, adjusted for the expenses of the Fund. In extraordinary instances, the Fund reserves the right to make direct investments.

[11] Senior Loans consist generally of obligations of companies and other entities (collectively, ''borrowers'') incurred for the purpose of reorganizing the assets and liabilities of a borrower; acquiring another company; taking over control of a company (leveraged buyout); temporary refinancing; or financing internal growth or other general business purposes. Senior Loans are often obligations of borrowers who have incurred a significant percentage of debt compared to equity issued and thus are highly leveraged.

[12] The Portfolio will primarily invest in securities (including Senior Loans) which typically will be rated below investment grade. Securities rated below investment grade, commonly referred to as ''junk'' or ''high yield'' securities, include securities that are rated Ba1/BB+/BB+ or below by Moody's Investors Service, Inc. (''Moody's''), Fitch Inc., or S&P, respectively, and may involve greater risks than securities in higher rating categories.

[13] According to the Exchange, the Portfolio may be reliant on the creditworthiness of the agent bank and other intermediate participants in a Senior Loan, in addition to the borrower, since rights that may exist under the loan against the borrower if the borrower defaults are typically asserted by or through the agent bank or intermediate participant. Agents are typically large commercial banks, although for Senior Loans that are not broadly syndicated, they can also include thrift institutions, insurance companies, or finance companies (or their affiliates). Such companies may be especially susceptible to the effects of changes in interest rates resulting from changes in U.S. or foreign fiscal or monetary policies, governmental regulations affecting capital raising activities, or other economic or market fluctuations. It is the expectation that the Portfolio will only invest in broadly syndicated loans.

The Sub-Adviser will manage the investments of the Portfolio. Under the master-feeder arrangement, investment advisory fees charged at the master fund level are deducted from the advisory fees charged at the feeder fund level. According to the Exchange, this arrangement avoids a ''layering'' of fees, *e.g.,* the Fund's total annual operating expenses would be no higher as a result of investing in a master-feeder arrangement than they would be if the Fund pursued its investment objectives directly. In addition, the Fund may discontinue investing through the master-feeder arrangement and pursue its investment objectives directly if the Trust's Board determines that doing so would be in the best interests of shareholders.

According to the Exchange, historically, the amount of public information available about a specific Senior Loan has been less extensive than if the loan were registered or exchange-traded. As noted above, the loans in which the Portfolio will invest will, in most instances, be Senior Loans, which are secured and senior to other indebtedness of the borrower. Each Senior Loan will generally be secured by collateral such as accounts receivable; inventory; equipment; real estate; intangible assets such as trademarks, copyrights, and patents; and securities of subsidiaries or affiliates. The value of the collateral generally will be determined by reference to financial statements of the borrower, by an independent appraisal, by obtaining the market value of such collateral (in the case of cash or securities if readily ascertainable), or by other customary valuation techniques considered appropriate by the Sub-Adviser. The value of collateral may decline after the Portfolio's investment, and collateral may be difficult to sell in the event of default. Consequently, the Portfolio may not receive all the payments to which it is entitled. By virtue of their senior position and collateral, Senior Loans typically provide lenders with the first right to cash flows or proceeds from the sale of a borrower's collateral if the borrower becomes insolvent (subject to the limitations of bankruptcy law, which may provide higher priority to certain claims such as employee salaries, employee pensions, and taxes). This means Senior Loans are generally repaid before unsecured bank loans, corporate bonds, subordinated debt, trade creditors, and preferred or common stockholders. To the extent that the Portfolio invests in unsecured loans, if the borrower defaults on such loans, there is no specific collateral on which the lender can foreclose. If the borrower defaults on a subordinated loan, the collateral may not be sufficient to cover both the senior and subordinated loans.

There is no organized exchange on which loans are traded, and reliable market quotations may not be readily available. A majority of the Portfolio's assets are likely to be invested in loans that are less liquid than securities traded on national exchanges. Loans with reduced liquidity involve greater risk than securities with more liquid markets. Available market quotations for such loans may vary over time, and if the credit quality of a loan unexpectedly declines, secondary trading of that loan may decline for a period of time. During periods of infrequent trading, valuing a loan can be more difficult, and buying and selling a loan at an acceptable price can be more difficult and delayed. In the event that the Portfolio voluntarily or involuntarily liquidates Portfolio assets during periods of infrequent trading, it may not receive full value for those assets. Therefore, elements of judgment may play a greater role in the valuation of loans. To the extent that a secondary market exists for certain loans, the market may be subject to irregular trading activity, wide bid/ask spreads, and extended trade settlement periods.

Senior Loans will usually require, in addition to scheduled payments of interest and principal, the prepayment of the Senior Loan from free cash flow. The degree to which borrowers prepay Senior Loans, whether as a contractual requirement or at their election, may be affected by general business conditions, the financial condition of the borrower, and competitive conditions among loan investors, among other factors. As such, prepayments cannot be predicted with accuracy. Recent market conditions, including falling default rates among others, have led to increased prepayment frequency and loan renegotiations. These renegotiations are often on terms more favorable to borrowers. Upon a prepayment, either in part or in full, the actual outstanding debt on which the Portfolio derives interest income will be reduced. However, the Portfolio may receive a prepayment penalty fee assessed against the prepaying borrower.

Other Investments

The Fund may (indirectly through its investments in the Portfolio or, in extraordinary circumstances, directly) invest in certain other types of investments. According to the Exchange, in addition to the principal investments described above, the Portfolio may invest in bonds, including corporate bonds, high-yield debt securities, and U.S. Government obligations.[14] The Portfolio also may invest in preferred securities.

The Portfolio may invest in repurchase agreements with commercial banks, brokers, or dealers to generate income from its excess cash balances and its securities lending cash collateral.[15] In addition, the Portfolio may enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date, and interest payment and have the characteristics of borrowing. The Portfolio also may invest in commercial paper.[16]

Subject to limitations, the Portfolio may invest in secured loans that are not first lien loans or loans that are unsecured. These loans have the same characteristics as Senior Loans except that such loans are not first in priority of repayment and/or may not be secured by collateral. Accordingly, the risks associated with these loans are higher than the risks for loans with first priority over the collateral. Because these loans are lower in priority and/or unsecured, they are subject to the additional risk that the cash flow of the borrower may be insufficient to meet scheduled payments after giving effect to the secured obligations of the borrower or in the case of a default, recoveries may be lower for unsecured loans than for secured loans.[17]

The Portfolio may invest in short-term instruments, including money market instruments (including money market funds advised by the Adviser), cash, and

[14] U.S. Government obligations are a type of bond and include securities issued or guaranteed as to principal and interest by the U.S. Government or its agencies or instrumentalities. The Portfolio also may purchase U.S.-registered, dollar-denominated bonds of foreign corporations, governments, agencies, and supra-national entities.

[15] A repurchase agreement is an agreement under which the Portfolio acquires a financial instrument (*e.g.,* a security issued by the U.S. government or an agency thereof, a banker's acceptance or a certificate of deposit) from a seller, subject to resale to the seller at an agreed-upon price and date (normally, the next business day). A repurchase agreement may be considered a loan collateralized by securities.

[16] Commercial paper consists of short-term promissory notes issued by banks, corporations, and other entities to finance short-term credit needs. These securities generally are discounted, but sometimes may be interest bearing.

[17] According to the Exchange, secured loans that are not first lien and loans that are unsecured generally have greater price volatility than Senior Loans and may be less liquid. There is also a possibility that originators will not be able to sell participations in these loans, which would create greater credit risk exposure for the holders of such loans. Secured loans that are not first lien and loans that are unsecured share the same risks as other below investment grade instruments.

cash equivalents, on an ongoing basis to provide liquidity or for other reasons.

The Portfolio may invest in the securities of other investment companies, including closed-end funds (including loan-focused closed end funds), subject to applicable limitations under Section 12(d)(1) of the 1940 Act.[18] To the extent allowed by law, the Portfolio's investment restrictions, and the Trust's Exemptive Order, the Portfolio may invest its assets in securities of investment companies that are money market funds, including those advised by the Adviser or otherwise affiliated with the Adviser, in excess of the limits discussed above.

In addition, the Portfolio may invest in exchange-traded notes, such as securities listed on the Exchange under NYSE Arca Equities Rule 5.2(j)(6), which are debt obligations of investment banks that are traded on exchanges and the returns of which are linked to the performance of certain reference assets, which may include market indexes.

The Portfolio will not invest 25% or more of the value of its total assets in securities of issuers in any one industry; however it may be deemed to concentrate its investment in any of the industries or group of industries in the financial services sector (consisting of financial institutions, including commercial banks, insurance companies, and other financial companies and their respective holding companies) to the extent that the banks originating or acting as agents for the lenders, or granting or acting as intermediaries in participation interests, in loans held by the Portfolio are deemed to be issuers of such loans.

The Portfolio may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities, junior subordinated loans, and unsecured loans deemed illiquid by the Adviser and Sub-Adviser. The Portfolio will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Portfolio's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Except for investments in ETFs that may hold non-U.S. issues, the Portfolio will not otherwise invest in non-U.S.-registered equity issues. In addition, the Portfolio will not invest in options contracts, futures contracts, or swap agreements.

In certain situations or market conditions, the Portfolio may temporarily depart from its normal investment policies and strategies provided that the alternative is consistent with the Portfolio's investment objective and is in the best interest of the Portfolio. For example, the Portfolio may hold a higher than normal proportion of its assets in cash in times of extreme market stress.[19] The Portfolio may borrow money from a bank as permitted by the 1940 Act or other governing statute, by applicable rules thereunder, or by Commission or other regulatory agency with authority over the Portfolio, but only for temporary or emergency purposes.

The Portfolio will be classified as a ''diversified'' investment company under the 1940 Act and intends to qualify for and to elect treatment as a separate regulated investment company under Subchapter M of the Internal Revenue Code.

The Portfolio's investments will be consistent with the Portfolio's investment objective and will not be used to enhance leverage.

Criteria To Be Applied to the Fund

While the Fund, which would be listed pursuant to the criteria applicable to actively managed funds under NYSE Arca Equities Rule 8.600, is not eligible for listing under NYSE Arca Equities Rule 5.2(j)(3) applicable to listing and trading of Investment Company Units based on a securities index, the Adviser and Sub-Adviser represent that, under normal market conditions, the Fund would generally satisfy the generic fixed income initial listing requirements in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 on a continuous basis measured at the time of purchase, as described below.[20]

With respect to the requirement of Commentary .02(a)(1), the Fund (through its investment in the Portfolio) will invest at least 80% of its net assets (plus any borrowings for investment purposes) in Senior Loans. The Adviser and Sub-Adviser expect that substantially all of the Fund's assets will be invested in Fixed Income Securities or cash/cash-like instruments.

With respect to the requirement of Commentary .02(a)(2), the Portfolio's Adviser and Sub-Adviser expect that substantially all, but at least 75%, of the Portfolio will be invested in loans that have an aggregate outstanding exposure of greater than $100 million.

With respect to the requirement of Commentary .02(a)(3), the Sub-Adviser represents that the Portfolio will not typically invest in convertible securities; however, should the Portfolio make such investments, the Sub-Adviser would direct the Portfolio to divest any converted equity security as soon as practicable.

[18] The Portfolio may invest in other debt or fixed income exchange-traded funds (''ETFs''), such as securities listed on the Exchange under NYSE Arca Equities Rules 5.2(j)(3), 8.100, and 8.600 (including other ETFs managed by the Adviser). ETFs may be structured as investment companies that are registered under the 1940 Act, typically as open-end funds or unit investment trusts. These ETFs are generally based on specific domestic and foreign market securities indices.

[19] *See* note 6, *supra.*

[20] NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 sets forth generic listing criteria applicable to listing under Rule 19b–4(e) under the Exchange Act of Investment Company Units (''Units'') based on an index or portfolio of ''Fixed Income Securities,'' which are debt securities that are notes, bonds, debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supra-national debt, and debt of a foreign country or a subdivision thereof. NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a) is as follows:

(a) Eligibility Criteria for Index Components. Upon the initial listing of a series of Units pursuant to Rule 19b–4(e) under the Exchange Act, the components of an index or portfolio underlying a series of Units shall meet the following criteria:

(1) The index or portfolio must consist of Fixed Income Securities;

(2) Components that in aggregate account for at least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more;

(3) A component may be a convertible security, however, once the convertible security component converts to the underlying equity security, the component is removed from the index or portfolio;

(4) No component fixed-income security (excluding Treasury Securities and GSE Securities) shall represent more than 30% of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or portfolio shall not in the aggregate account for more than 65% of the weight of the index or portfolio;

(5) An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and

(6) Component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Exchange 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 Exchange Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

With respect to the requirement of Commentary .02(a)(4), the Sub-Adviser represents that the Portfolio will not concentrate its investments in excess of 30% in any one security (excluding Treasury Securities and GSE Securities) and will not invest more than 65% of its assets in five or fewer securities (excluding Treasury Securities and GSE Securities).

With respect to the requirement of Commentary .02(a)(5), the Sub-Adviser represents that the Portfolio will invest in Senior Loans issued to at least 13 non-affiliated borrowers.

With respect to the requirements of Commentary .02(a)(6), the Sub-Adviser represents that the Portfolio may make investments on a continuous basis in compliance with such requirement at the time of purchase; however, the market for Senior Loans differs in several material respects from the market of other fixed income securities (*e.g.,* bonds). A significant percentage of the Senior Loan market would not meet the criteria set forth in Commentary .02(a)(6), but would be readily tradable in the secondary market. For the 12-month period ending August 12, 2012, 53.4% of the borrowers of primary Senior Loans (also known as leveraged loans) had total indebtedness of $1 billion or less and Senior Loans outstanding of $250 million or more (Source: S&P). In order to add to the Portfolio's diversification and to expand the Portfolio's investment universe, the Portfolio may invest in Senior Loans borrowed by entities that would not meet the criteria set forth in Commentary .02(a)(6) above, provided the borrower has at least $250 million outstanding in Senior Loans. The Senior Loans borrowed by such entities would be well known to participants in the Senior Loan markets, would typically attract multiple market makers, and would share the liquidity and transparency characteristics of senior secured debt borrowed by entities meeting the criteria in the generic listing criteria of NYSE Arca Equities Rule 5.2(j)(3), Commentary .02.

Additional information regarding the Fund, the Portfolio, and the Shares, including investment strategies, risks, Senior Loan market, Primary and Secondary Indices, creation and redemption procedures, fees, Portfolio holdings disclosure policies, distributions and taxes is included in the Notice and Registration Statement.[21]

[21] *See* Notice and Registration Statement, *supra* notes 3 and 4, respectively.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[22] and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[24] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[25] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. 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, and quotation and last-sale information will be available via the Consolidated Tape Association (''CTA'') high-speed line. The intra-day, closing and settlement prices of the Portfolio securities, including Senior Loans and other assets, will also readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services. The Portfolio Indicative Value (''PIV''), as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session.[26] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for the Fund's calculation of net asset value (''NAV'') at the end of the business day.[27] The NAV of the Fund will be calculated by the Custodian and determined at the close of the regular trading session on the New York Stock Exchange (ordinarily 4:00 p.m. Eastern time) on each day that such exchange is open. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. In addition, a basket composition file, which includes the security names, amount, and share quantities, as 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 New York Stock Exchange via the National Securities Clearing Corporation. The Primary Index and Secondary Index descriptions are publicly available, and information, including values, components, and weightings, is updated and provided daily on a subscription basis by S&P and Markit, respectively. Complete methodologies for the Primary and Secondary Index are made available on the Web sites of S&P and Markit, respectively. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. 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.

[22] 15 U.S.C. 78f.

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 17 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[26] According to the Exchange, several major market data vendors display and/or make widely available PIVs taken from the CTA or other data feeds. *See* Notice, *supra* note 3, 78 FR at 10243, n.43.

[27] On a daily basis, the Disclosed Portfolio will include each portfolio security, including Senior Loans, and other financial instruments of the Portfolio with the following information on the Fund's Web site: ticker symbol (if applicable), name of security and financial instrument, number of shares (if applicable) and dollar value of securities (including Senior Loans) and financial instruments held in the Portfolio, and percentage weighting of the security and financial instrument in the Portfolio.

Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[28] and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth additional circumstances under which Shares of the Fund may be halted.[29] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[30] The Adviser and the Sub-Adviser are each affiliated with a broker-dealer and have implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's Portfolio.[31] The Primary Index Committee has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Primary Index, and the Oversight Committee has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Secondary Index. The Exchange further represents that S&P and Markit are not broker-dealers or affiliated with a broker-dealer, and each has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Primary Index and Secondary Index, respectively. The Commission also notes that the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange,[32] will communicate as needed regarding trading in the Shares with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and 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.

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

(5) For initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[33] as provided by NYSE Arca Equities Rule 5.3.

(6) It is anticipated that the Portfolio, in accordance with its principal investment strategy, will invest approximately 50% to 75% of its net assets in Senior Loans that are eligible for inclusion and meet the liquidity thresholds of the Primary and/or the Secondary Indices. Each of the Portfolio's Senior Loan investments will have no less than $250 million USD par outstanding. The Sub-Adviser does not intend to purchase Senior Loans that are in default, and it is the expectation that the Portfolio will only invest in broadly syndicated loans.

(7) Under normal market conditions, the Fund would generally satisfy the generic fixed income initial listing requirements in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 on a continuous basis measured at the time of purchase.

(8) The Fund will not invest in non-U.S.-registered equity issues (except for Underlying ETFs that may hold non-U.S. issues). The Portfolio may hold in the aggregate up to 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities, junior subordinated loans, and unsecured loans deemed illiquid by the Adviser and Sub-Adviser. The Portfolio will not invest in options contracts, futures contracts, or swap agreements.

(9) The Portfolio's and Fund's investments will be consistent with the Portfolio's and Fund's investment objective and will not be used to enhance leverage.

(10) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in

[28] These reasons may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing 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.

[29] *See* NYSE Arca Equities Rule 8.600(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange).

[30] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[31] *See* note 5, *supra* and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[32] The Exchange states that, while FINRA surveils trading on the Exchange pursuant to a regulatory services agreement, the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[33] *See* 17 CFR 240.10A–3.

the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [34] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–NYSEArca-2013–08) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07585 Filed 4–1–13; 8:45 am]

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[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69245; File No. SR–NASDAQ–2013–053]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Fee Pilot Program for NASDAQ Last Sale

March 27, 2013.

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 March 20, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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

NASDAQ is proposing to extend for three months the fee pilot pursuant to which NASDAQ distributes the NASDAQ Last Sale (''NLS'') market data products. NLS allows data distributors to have access to real-time market data for a capped fee, enabling those distributors to provide free access to the data to millions of individual investors via the internet and television. Specifically, NASDAQ offers the ''NASDAQ Last Sale for NASDAQ'' and ''NASDAQ Last Sale for NYSE/Amex'' [3] data feeds containing last sale activity in U.S. equities within the NASDAQ Market Center and reported to the FINRA/NASDAQ Trade Reporting Facility (''FINRA/NASDAQ TRF''), which is jointly operated by NASDAQ and the Financial Industry Regulatory Authority (''FINRA''). The purpose of this proposal is to extend the existing pilot program for three months, from April 1, 2013 to June 30, 2013.

This pilot program supports the aspiration of Regulation NMS to increase the availability of proprietary data by allowing market forces to determine the amount of proprietary market data information that is made available to the public and at what price. During the pilot period, the program has vastly increased the availability of NASDAQ proprietary market data to individual investors. Based upon data from NLS distributors, NASDAQ believes that since its launch in July 2008, the NLS data has been viewed by over 50,000,000 investors on Web sites operated by Google, Interactive Data, and Dow Jones, among others.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

7039. NASDAQ Last Sale Data Feeds

(a) For a three month pilot period commencing on [January] *April* 1, 2013, NASDAQ shall offer two proprietary data feeds containing real-time last sale information for trades executed on NASDAQ or reported to the NASDAQ/FINRA Trade Reporting Facility.

(1)—(2) No change.

(b)—(c) No change.

* * * * *

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

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

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

1. Purpose

Prior to the launch of NLS, public investors that wished to view market data to monitor their portfolios generally had two choices: (1) Pay for real-time market data or (2) use free data that is 15 to 20 minutes delayed. To increase consumer choice, NASDAQ proposed a pilot to offer access to real-time market data to data distributors for a capped fee, enabling those distributors to disseminate the data at no cost to millions of internet users and television viewers. NASDAQ now proposes a three-month extension of that pilot program, subject to the same fee structure as is applicable today.

NLS consists of two separate ''Level 1'' products containing last sale activity within the NASDAQ market and reported to the jointly-operated FINRA/NASDAQ TRF. First, the ''NASDAQ Last Sale for NASDAQ'' data product is a real-time data feed that provides real-time last sale information including execution price, volume, and time for executions occurring within the NASDAQ system as well as those reported to the FINRA/NASDAQ TRF. Second, the ''NASDAQ Last Sale for NYSE/NYSE MKT'' data product provides real-time last sale information including execution price, volume, and time for NYSE- and NYSE MKT-securities executions occurring within the NASDAQ system as well as those reported to the FINRA/NASDAQ TRF. By contrast, the securities information processors (''SIPs'') that provide ''core'' data consolidate last sale information from all exchanges and trade reporting facilities (''TRFs''). Thus, NLS replicates a subset of the information provided by the SIPs.

NASDAQ established two different pricing models, one for clients that are able to maintain username/password entitlement systems and/or quote counting mechanisms to account for usage, and a second for those that are not. Firms with the ability to maintain username/password entitlement systems and/or quote counting mechanisms are eligible for a specified fee schedule for the NASDAQ Last Sale for NASDAQ Product and a separate fee schedule for the NASDAQ Last Sale for NYSE/NYSE MKT Product. Firms that are unable to maintain username/password

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

[2] 17 CFR 240.19b–4.

[3] This filing reflects the change of the name of the product from ''NASDAQ Last Sale for NYSE/Amex'' to ''NASDAQ Last Sale for NYSE/NYSE MKT'' in the text of Rule 7039, due to the change in the name of NYSE Amex to NYSE MKT.