

Funds must continue to comply with Regulation Fair Disclosure as if it applied to them (except that the exemptions provided in rule 100(b)(2)(iii) therein shall not apply). Applicants believe that the creation basket flexibility they are seeking does not raise any new concerns about selective disclosure of material non-public information. First, a Fund's use of, or conversations with Authorized Participants about, Creation Baskets that would result in such disclosure would effectively be limited by the Funds' obligation to comply with Regulation Fair Disclosure. Second, each Business Day before the open of trading on the Exchange where a Fund is listed, the Fund will publish on its website the composition of any basket accepted by the Fund on the previous Business Day that differed from such Business Day's Pro Rata Basket.

## II. Requested Exemptive Relief

Applicants believe that the Prior Order continues to meet the relevant standards for relief pursuant to section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.<sup>7</sup>

## III. Applicants' Conditions:

Applicants agree that any Order of the Commission granting the requested relief will be subject to all of the conditions in the Prior Order, except condition 2 and condition 6 which are replaced with new conditions 2 and 6 below, as well as new condition 10:

2. The website for the Trust, which will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and market closing price or Bid/Ask Price of the Shares, a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV, and any other information regarding premiums and discounts as may be required for other ETFs under Rule 6c-11 under the 1940 Act. The website will also disclose the median bid-ask spread for each Fund's most recent fiscal year based on the National Best Bid and Offer at the time of calculation of NAV (or such other spread measurement as may be required for other ETFs under Rule 6c-11 under the 1940 Act). On each applicable Business Day, when accepting orders involving a Creation Basket that differs from the Fund's Pro Rata Basket, each Fund will publish on its website before

the opening of regular trading on the primary listing Exchange of the Fund's Shares an Optimized Basket and Optimized Basket Overlap.

6. Each Fund will comply with the recordkeeping requirements of Rule 6c-11 under the Act, except that for purposes of this condition, only Creation Baskets different from the Fund's Pro Rata Basket will be treated as a "custom basket" under Rule 6c-11(d)(2)(ii). In addition, each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, (i) a copy of any Optimized Basket published on the Fund's website for each Business Day; and (ii) a copy of each Creation Basket made available on a given day. In addition, each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, all written agreements (or copies thereof) between the Fund and each AP Representative related to the AP Representative's role as such.

10. Each Fund will adopt and implement written policies and procedures that govern the construction of Creation Baskets, as required under Rule 6c-11(c)(3) under the Act, except that for purposes of this condition, any Creation Basket different from the Fund's Pro Rata Basket will be treated as a "custom basket." The Fund's basket policies and procedures will be covered by the Fund's compliance program and other requirements under Rule 38a-1 under the Act.

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

**Vanessa A. Countryman,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270-451, OMB Control No. 3235-0509]**

### Submission for OMB Review; Comment Request; Extension: Rule 301 of Regulation ATS

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget

("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 301 of Regulation ATS (17 CFR 242.301) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

Regulation ATS provides a regulatory structure for alternative trading systems. Rule 301 of Regulation ATS contains certain record keeping and reporting requirements, as well as additional obligations that apply only to alternative trading systems with significant volume. The Rule requires all alternative trading systems that wish to comply with Regulation ATS to file an initial operation report on Form ATS. Alternative trading systems are also required to supply updates on Form ATS to the Commission describing material changes to the system, file quarterly transaction reports on Form ATS-R, and file cessation of operations reports on Form ATS. An alternative trading system with significant volume is required to comply with requirements for fair access and systems capacity, integrity, and security.

The Commission staff estimates that entities subject to the requirements of Rule 301 will spend a total of approximately 2,983 hours a year to comply with the Rule.

Regulation ATS requires ATSS to preserve any records, for at least three years, made in the process of complying with the system's capacity, integrity and security requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Written comments and recommendations for the proposed information collection should be sent by December 20, 2024 to (i) [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: November 15, 2024.

**Vanessa A. Countryman,**  
Secretary.

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<sup>7</sup> See *supra* note 2.