index options, the Exchange proposes various maintenance requirements, which require continual compliance and periodic compliance.

The trading of these options also would be subject to, among others, Exchange Rules governing margin requirements [37] and trading halt procedures for index options.[38] The Exchange would apply the same position limits, namely 25,000 contracts on the same side of the market for the MSCI EM Index option and the MSCI EAFE Index option, as is the case today for these same index options on Phlx. The Exchange proposes to apply existing index option margin requirements for the purchase and sale of options on the MSCI EM Index and the MSCI EAFE Index.

The Exchange represents that it has an adequate surveillance program in place for options on these indexes. The Exchange also represents that it has the necessary systems capacity to support the new options series. As stated in this filing, the Exchange has rules in place designed to protect public customer trading.

With respect to the early closing of options on the MSCI EAFE Index on the last trading day prior to expiration, the Exchange believes that because these hours are similar to MSCI EAFE futures products, this would align both options and futures on the MSCI EAFE Index. The Exchange also believes that aligning the trading hours for products which trade on the MSCI EAFE Index would provide investors and market makers a greater ability to hedge.

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 not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that listing these products on NOM will provide investors with another venue to trade options on the MSCI EM and MSCI EAFE Indexes.

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

No written comments were either solicited or received.

[37] *See* Chapter XIII, Sec. 3 (Margin Requirements).

[38] *See* Chapter XIV, Sec. 10 (Trading Sessions).

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [39] and Rule 19b–4(f)(6) thereunder.[40]

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2012–092 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–NASDAQ–2012–092. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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–NASDAQ–2012–092 and should be submitted on or before August 29, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Kevin M. O'Neill,

Deputy Secretary.

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[39] 15 U.S.C. 78s(b)(3)(A).

[40] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67589; File No. SR–OPRA–2012–03]

Options Price Reporting Authority; Order Approving an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Revise the Definition of the Term ''Nonprofessional''

August 2, 2012.

I. Introduction

On May 31, 2012, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

and Quotation Information (''OPRA Plan'').[3] The proposed OPRA Plan amendment would revise OPRA's definition of the term ''Nonprofessional.'' The proposed OPRA Plan amendment was published for comment in the **Federal Register** on June 22, 2012.[4] The Commission received no comment letters in response to the Notice.

This order approves the proposed OPRA Plan amendment.

II. Description of the Proposal

The purpose of the proposed amendment is to revise OPRA's definition of the term ''Nonprofessional.''[5]

A person may become an OPRA ''Subscriber'' in one of two ways.[6] The first way is that the person may sign a ''Professional Subscriber Agreement'' directly with OPRA. In this case, the person pays fees directly to OPRA on the basis of the number of the person's ''devices'' and/or ''UserIDs.'' The second way is that the person may enter into a ''Subscriber Agreement,'' not directly with OPRA, but with an OPRA ''Vendor''—an entity that has entered into a ''Vendor Agreement'' with OPRA authorizing the entity to redistribute OPRA Data to third persons. In this case, OPRA collects fees from the Vendor with respect to the receipt of the OPRA Data by the person entering into the Subscriber Agreement. If the person qualifies as a ''Nonprofessional Subscriber,'' OPRA caps the fee that it charges the Vendor, and the fees that the person is required to pay to the Vendor may be less than they would be if the person is classified as a ''Professional Subscriber.''

Under OPRA's current definition, to qualify as a ''Nonprofessional,'' a person must not be ''a securities broker-dealer, investment advisor, futures commission merchant, commodities introducing broker or commodity trading advisor, member of a securities exchange or association or futures contract market, or an owner, partner, or associated person of any of the foregoing.''[7] For persons employed by securities broker-dealers, OPRA has interpreted the term ''associated person'' by reference to the definition of the term ''associated person of a broker or dealer'' in Section 3(a)(18) of the Act.[8] According to OPRA, that definition includes ''any employee'' of a broker or dealer, and accordingly employees of broker-dealers have not been eligible to be treated as Nonprofessionals.

According to OPRA, two inconsistencies result from this language. First, OPRA's language on this point differs from the definition of ''Nonprofessional'' used by the Consolidated Tape Association (''CTA'') and the ''Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis'' (''Nasdaq/UTP Plan''). The CTA and the Nasdaq/UTP Plan define the term ''Nonprofessional'' substantially identically, and by reference to whether the person seeking to qualify as a Nonprofessional is required to register in some capacity, not by reference to whether the person is an associated person of an entity or person that is required to register in some capacity.[9] Second, because the definition of the term ''associated person'' is defined differently in the commodity futures industry, a person who is employed by a commodity futures merchant (subject to regulation under the Commodity Exchange Act) may be able to qualify as a Nonprofessional under the language of the current OPRA definition even though a person who is employed by a securities broker to perform identical functions cannot.[10]

In order to eliminate these inconsistencies, OPRA proposes to replace paragraphs 1(c) and 1(d) of each Addendum for Nonprofessionals with a new paragraph 1(c) that tracks the language used by the CTA and the UTP/Nasdaq Plan. The revised definition would allow a person who is not himself or herself registered in some capacity with the Commission or the CFTC, but who is employed by an entity that is so registered, to qualify as a ''Nonprofessional'' for purposes of the person's personal, non-business-related, investment activities. According to OPRA, the changes that it is proposing in its definition of the term ''Nonprofessional'' will add clarity to the definition and more closely align the OPRA Plan definition with the definitions used by the CTA and the UTP/Nasdaq Plan.[11]

III. Discussion

After careful review, the Commission finds that the proposed OPRA Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.[12] Specifically, the Commission finds that the proposed OPRA Plan amendment is consistent with Section 11A of the Act[13] and Rule 608 thereunder[14] in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanism of, a national market system. The Commission notes that OPRA's proposed changes to the definition of the term ''Nonprofessional'' are designed to add clarity to the definition and eliminate any inconsistencies between OPRA's definition and the definitions used by the CTA and the UTP/Nasdaq Plan. The revised language would allow a person

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 SE.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.*

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The ten participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC, NYSE Amex, LLC n/k/a NYSE MKT LLC, and NYSE Arca, Inc.

[4] *See* Securities Exchange Act Release No. 67210 (June 15, 2012), 77 FR 37720 (''Notice'').

[5] OPRA's current definition of the term ''Nonprofessional'' is set out in an ''Addendum for Nonprofessionals'' that is attached to its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement (collectively, ''Addenda''). These two forms, in turn, are Attachments B–1 and B–2 to OPRA's form of Vendor Agreement. *See www.opradata.com.*

[6] OPRA defines a ''Subscriber,'' in general, as an entity or person that receives OPRA Data for the person's own use.

[7] *See* Addenda, ¶ 1(c), *supra* note 5.

[8] Section 3(a)(18) of the Act provides as follows: ''The term 'person associated with a broker or dealer' or 'associated person of a broker or dealer' means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or *any employee* of such broker or dealer, except that any person associated with a broker or dealer whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of section 15(b) [of this title] (other than paragraph (6) thereof).'' (Emphasis added.)

[9] *See* the CTA ''Nonprofessional Subscriber Policy,'' available at *http://www.nyxdata.com/Docs/Market-Data/Policies. See also* Notice, *supra,* note 4 at 37721, n.9.

[10] *See* Notice, *supra,* note 4 at 37721, n.10.

[11] According to OPRA, in the vast majority of cases, its definition of the term ''Nonprofessional'' and those of the CTA and the UTP/Nasdaq Plan have always classified Subscribers as Professionals or Nonprofessionals consistently. OPRA believes that revising its definition in the manner described in this filing will reduce the small subset of cases in which its definition and those of the CTA and the UTP/Nasdaq Plan generate different results.

[12] In approving this proposed OPRA Plan Amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78k–1.

[14] 17 CFR 242.608.

who is not registered in some capacity with the Commission or the CFTC, but who is employed by an entity that is required to so register to qualify as a ''Nonprofessional'' and therefore gain access to OPRA data at a potentially reduced cost. Accordingly, the Commission believes that the proposal may increase certain market participant's ability to access OPRA data on a timely basis. Therefore, the Commission believes that OPRA's proposal is consistent with Section 11A of the Act [15] and Rule 608 thereunder.[16]

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[17] and Rule 608 hereunder,[18] that the proposed OPRA Plan amendment (SR–OPRA–2012–03) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–19416 Filed 8–7–12; 8:45 am]

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[15] 15 U.S.C. 78k–1.

[16] 17 CFR 242.608.

[17] 15 U.S.C. 78k–1.

[18] 17 CFR 242.608.

[19] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67583; File No. SR–BATS–2012–033]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the iShares Ultrashort Duration Bond Fund

August 2, 2012.

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 July 27, 2012, BATS Exchange, Inc. (''Exchange'' or ''BATS'') 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 substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

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

The Exchange is proposing to list and trade shares of the iShares Ultrashort Duration Bond Fund (''Fund'') of the iShares U.S. ETF Trust (''Trust'') under BATS Rule 14.11(i) (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.'' The text of the proposed rule addition is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the 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 parts of such statements.

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

1. Purpose

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Fund will be an actively managed ETF. The Shares will be offered by the Trust, which was established as a Delaware statutory trust on June 21, 2011. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[4]

BlackRock Fund Advisors is the investment adviser (''BFA'' or ''Adviser'') to the Fund.[5] BlackRock Financial Management, Inc. serves as sub-adviser for the Fund (''Sub-Adviser'').[6] State Street Bank and Trust Company is the administrator, custodian, and transfer agent for the Trust. BlackRock Investments, LLC (''Distributor'') serves as the distributor for the Trust.

BATS Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Rule

[3] The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018). Although the Fund would be the first actively-managed exchange-traded fund (''ETF'') listed on the Exchange, the Commission has previously approved the listing and trading of a number of actively managed ETFs on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release Nos. 64550 (May 26, 2011), 76 FR 32005 (June 2, 2011) (SR–NYSEArca-2011–11) (order approving listing and trading of two actively managed ETFs, including Guggenheim Enhanced Ultra-Short Bond ETF); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca-2009–79) (order approving listing and trading of five actively managed ETFs, including PIMCO Enhanced Short Maturity Strategy Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[4] *See* Registration Statement on Form N–1A for the Trust, dated March 5, 2012 (File Nos. 333–179904 and 811–22649). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Company under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[5] BlackRock Fund Advisors is an indirect wholly owned subsidiary of BlackRock, Inc.

[6] The Adviser manages the Fund's investments and its business operations subject to the oversight of the Board of Trustees of the Trust (''Board''). While BFA is ultimately responsible for the management of the Fund, it is able to draw upon the trading, research, and expertise of its asset management affiliates for portfolio decisions and management with respect to portfolio securities. The Adviser also has ongoing oversight responsibility. The Sub-Adviser, subject to the supervision and oversight of the Adviser and the Board, is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings.

[7] 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

Continued