

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67003; File No. SR-NYSEArca-2012-24)

May 16, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of AdvisorShares Global Echo ETF under NYSE Arca Equities Rule 8.600

I. Introduction

On March 16, 2012, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the AdvisorShares Global Echo ETF (“Fund”) under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the Federal Register on April 5, 2012.³ The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by AdvisorShares Trust (“Trust”), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁴ The investment adviser to the Fund is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 66696 (March 30, 2012), 77 FR 20660 (“Notice”).

⁴ The Trust is registered under the Investment Company Act of 1940 (“1940 Act”). On July 15, 2011, the Trust filed with the Commission Post-Effective Amendment No. 32 to Form N-1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund

AdvisorShares Investments, LLC (“Adviser”). The Fund’s sub-advisers (“Sub-Advisers” and each a “Sub-Adviser”), which provide day-to-day portfolio management of the Fund, are First Affirmative Financial Network LLC; Reynders, McVeigh Capital Management, LLC; Baldwin Brothers Inc.; and Community Capital Management Inc.

Forside Fund Services, LLC is the principal underwriter and distributor of the Fund’s Shares. The Bank of New York Mellon Corporation serves as the administrator (“Administrator”), custodian, transfer agent, and fund accounting agent for the Fund.

The Exchange represents that neither the Adviser nor the Sub-Advisers are affiliated with a broker-dealer.⁵

Description of the Fund

The Fund will seek to achieve long-term capital appreciation with an emphasis on absolute (positive) returns and low sensitivity to traditional financial market indices, such as the S&P 500 Index, over a full market cycle. The Fund will seek to achieve its investment objective by investing under normal market circumstances⁶ at least 80% of its total assets in the following

(File Nos. 333-157876 and 811-22110) (“Registration Statement”). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812-13677) (“Exemptive Order”).

⁵ See Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event (a) the Adviser or the Sub-Advisers become 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 term “under normal market circumstances” includes, but is not limited to, the absence of extreme volatility or trading halts in the equities or fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or 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.

securities: U.S. exchange-listed equity securities;⁷ American Depositary Receipts (“ADRs”);⁸ fixed income securities (including municipal bonds); and exchange-traded products (“Underlying ETPs”)⁹ that provide diversified exposure to various asset classes and market segments.

The Fund will be a multi-manager, multi-strategy, broadly diversified, actively managed exchange-traded fund with a focus on “Sustainable Investing.” Sustainable Investing generally refers to an investment methodology that takes into consideration economic, environmental, technology, and a variety of social factors when making investment decisions. Accordingly, the Fund is designed as a core allocation that proactively seeks Sustainable Investment-themed investment opportunities that may socially and environmentally benefit the earth, with a focus on water, clean energy, community development, innovation, and other sustainable themes across asset classes. Sustainable Investment themes that the Fund may pursue include, but are not

⁷ The Fund may invest in equity securities of domestic and foreign companies, including common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock, and investments in master limited partnerships.

⁸ The Fund generally will invest in sponsored ADRs, but it may invest up to 10% of total assets in unsponsored ADRs.

⁹ Underlying ETPs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Trust Units (as described in NYSE Arca Equities Rule 8.500); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. The Underlying ETPs all will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of Underlying ETPs registered under the 1940 Act consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation, or order of the Commission or interpretation thereof. The Fund will only make such investments in conformity with the requirements of Section 817 of the Internal Revenue Code of 1986. The Underlying ETPs in which the Fund may invest will primarily be index-based exchange-traded funds that hold substantially all of their assets in securities representing a specific index.

limited to, the following: economic themes (corporate governance, risk and crisis management, community investment, energy efficiency, food, green building); environmental themes (air, water, earth); technology themes (mobility, renewable energy, technology, and access); and social themes (human health, such as occupational health and safety).

The Fund will seek to achieve its investment objective by allocating a portion of the Fund's assets to each of the Fund's Sub-Advisers who will employ their respective investment strategies to generate absolute returns over a full market cycle. Generally, a full market cycle consists of a bull market followed by a bear market and a return to a bull market, or vice versa. Initially, an equal proportion of the Fund's assets will be allocated to each Sub-Adviser to obtain the desired exposure to the strategies described below. The allocation among Sub-Advisers will vary over time in response to a variety of factors including prevailing market conditions. The Adviser has designated First Affirmative Financial Network, LLC to allocate and monitor the allocation of the Fund's assets to each Sub-Adviser to ensure that the Fund's portfolio maintains the proper investment exposure to seek to achieve its investment objective. Each Sub-Adviser will seek to identify and invest either directly or indirectly through other Underlying ETPs in securities of companies that are making a positive impact in the world and reflect Sustainable Investment themes, including corporate sustainability. The Fund's investments in companies that practice corporate sustainability will provide an additional layer of diversification because such investments are designed to increase long-term shareholder value. Companies focused on corporate sustainability also can provide more attractive risk return profiles for investors, and can leverage various other Sustainable Investment themes.

The Fund may take both long and short positions in any of these investments. The Fund may invest up to 65% (and intends to always invest at least 15%) of its net assets in domestic and

foreign fixed income securities. The Fund may invest in securities of any capitalization range and may employ one or more investment styles (from growth to value) at any time as necessary to seek to achieve the Fund's investment objective.

Each Sub-Adviser will determine whether to buy or sell an investment for the Fund's portfolio by applying one or more of the following strategies:

Core Strategies

Fixed Income Strategies. Fixed income strategies consist of investment strategies that invest primarily in debt securities of domestic and foreign governments, agencies, instrumentalities, municipalities and companies of all maturities and qualities (including "junk bonds" and up to 15% of total assets in defaulted debt securities), TIPS (Treasury Inflation Protected Securities), and Underlying ETPs that provide exposure to fixed income securities or strategies. 85% or more of the Fund's investments in fixed income strategies will be in investment grade debt securities. Debt securities of foreign governments are sometimes referred to as sovereign debt obligations and may be issued or guaranteed by foreign governments or their agencies. The Fund may invest up to 10% of total assets in mortgage-backed securities or other asset-backed securities.¹⁰ Fixed income strategies also may involve hedging through the use of investments in other Underlying ETPs to enhance risk-adjusted return.

Equity Strategies. Equity strategies will consist of both domestic and international/emerging markets strategies. The domestic equity strategies will seek to invest in securities of companies that the Sub-Advisers believe will outperform other equity securities

¹⁰ This limitation does not apply to securities issued or guaranteed by federal agencies and/or U.S. government sponsored instrumentalities, such as the Government National Mortgage Administration ("GNMA"), the Federal Housing Administration ("FHA"), the Federal National Mortgage Association ("FNMA"), and the Federal Home Loan Mortgage Corporation ("FHLMC").

over the long term. The international/emerging markets equity strategies will seek to invest in securities of undervalued international companies through ADRs that provide the Fund with exposure to businesses outside of the U.S. and that are attractively priced relative to their economic fundamentals. Both U.S. and international investments will be selected using fundamental analysis of factors such as earnings, cash flows, and valuations based upon them, and will be diversified among the economic and industry sectors in the S&P 500[®] Index, the Morgan Stanley Capital International (“MSCI”) All Country World Index, MSCI Europe, Australasia and Far East Index, and MSCI Emerging Markets Index.

Alternative Strategies

Long/Short and Hedging Strategies. Alternative strategies will consist of strategies that combine short sales of equities (including shares of Underlying ETPs) or purchase of shares of inverse Underlying ETPs. As such, long/short strategies may utilize securities that seek to track indexes on markets, sectors, strategies, and/or industries to hedge against potential adverse movements in security prices. The Fund may implement multiple variations of long/short and hedging strategies. The basic long/short equity strategies generally will seek to increase net long exposure in a bull market and decrease net long exposure, by holding high concentrations in cash or investing 100% short in a bear market.

Other Investments

The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Fund will follow certain procedures designed to minimize the risks inherent in such agreements. These procedures will include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Sub-Advisers. In addition, the value of the collateral underlying

the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement. The Fund may enter into reverse repurchase agreements without limit as part of the Fund's investment strategy. Reverse repurchase agreements involve sales by the Fund of portfolio assets concurrently with an agreement by the Fund to repurchase the same assets at a later date at a fixed price.

The Fund, or Underlying ETPs in which it invests, may invest in U.S. government securities and U.S. Treasury zero-coupon bonds. The Fund, or Underlying ETPs in which it invests, may invest in shares of real estate investment trusts ("REITs").

Diversification. The Fund may not (i) with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer; or (ii) acquire more than 10% of the outstanding voting securities of any one issuer.

Concentration. The Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, or shares of investment companies. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund will not purchase illiquid securities, and except for Underlying ETPs that may hold non-U.S. issues, the Fund will not otherwise invest in non-U.S. issues. Further, in accordance with the Exemptive Order, the Fund will not invest in options,

futures, or swaps.

To respond to adverse market, economic, political, or other conditions, the Fund may invest 100% of its total assets, without limitation, in high-quality debt securities and money market instruments either directly or through Underlying ETPs. The Fund may be invested in these instruments for extended periods, depending on the Sub-Advisers' assessment of market conditions. These debt securities and money market instruments include shares of other mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities, repurchase agreements, and bonds that are BBB or higher. While the Fund is in a defensive position, the opportunity to achieve its investment objective will be limited.

Additional information regarding the Trust, Fund, and the Shares, including but not limited to investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, taxes, Net Asset Value ("NAV"), and availability of information can be found in the Registration Statement and Notice, as applicable.¹¹

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act¹² and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with

¹¹ See supra notes 4 and 3, respectively.

¹² 15 U.S.C. 78f.

¹³ 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).

¹⁴ 15 U.S.C. 78f(b)(5).

persons engaged in facilitating transactions in securities, 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 Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

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,¹⁵ 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. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line. In addition, 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.¹⁶ On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website 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 the NAV at the end of the business day.¹⁷ The NAV per Share for the Fund will be calculated by the Administrator and determined as of the

¹⁵ 15 U.S.C. 78k-1(a)(1)(C)(iii).

¹⁶ According to the Exchange, several major market data vendors display and/or make widely available PIVs published on the CTA or other data feeds.

¹⁷ On a daily basis, the Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information: ticker symbol (if applicable), name of security or financial instrument, number of shares or dollar value of financial instruments held in the portfolio, and percentage weighting of the security or financial instrument in the portfolio. The website information will be publicly available at no charge.

close of the regular trading session on the New York Stock Exchange (“NYSE”) (ordinarily 4:00 p.m., E.T.) on each day that the NYSE is open. In addition, 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 the previous day’s closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The website for the Fund will include a form of the prospectus for the Fund that may be downloaded, additional data relating to NAV, and other applicable quantitative information, updated on a daily basis. Moreover, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the National Securities Clearing Corporation. Price information for the ADRs, debt and equity securities held by the Fund, including foreign equity securities, and Underlying ETPs will be available through major market data vendors or securities exchanges listing and trading such securities.

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 Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.¹⁸ In addition, the Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D), and may halt trading in the Shares if trading is not occurring in the securities

¹⁸ See NYSE Arca Equities Rule 8.600(d)(1)(B).

and/or the financial instruments comprising the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.¹⁹ The Exchange will consider the suspension of trading in or removal from listing of the Shares if the PIV is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time.²⁰ Neither the Adviser nor the Sub-Advisers are affiliated with a broker-dealer.²¹ 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.²² The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Commission also notes

¹⁹ With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

²⁰ See NYSE Arca Equities Rule 8.600(d)(2)(C)(ii).

²¹ See supra note 5 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-Advisers 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.

²² See NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

that the Exchange may obtain information via the Intermarket Surveillance Group (“ISG”) from other exchanges that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. All of the equity securities, Underlying ETPs, and sponsored ADRs held by the Fund will be listed on securities exchanges, all of which are members of ISG.

The Exchange further 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’s surveillance procedures applicable to derivative products, which include Managed Fund Shares, 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,²³ as provided by NYSE Arca Equities Rule 5.3.
- (6) The Fund will not: (a) purchase illiquid securities; (b) in accordance with the Exemptive Order, invest in options, futures, or swaps; or (c) except for Underlying ETPs that may hold non-U.S. issues, otherwise invest in non-U.S. issues.
- (7) The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.
- (8) 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.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act²⁴ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

²³ See 17 CFR 240.10A-3.

²⁴ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²⁵ that the proposed rule change (SR-NYSEArca-2012-24) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Kevin M. O'Neill
Deputy Secretary

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30-3(a)(12).