



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103455; File No. SR-NYSEARCA-2025-51]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reflect an Amendment to the Exemptive Relief Applicable to Certain Managed Portfolio Shares**

July 14, 2025.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on July 8, 2025, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to reflect an amendment to the exemptive relief applicable to the following series of Managed Portfolio Shares, which are listed and traded on the Exchange under NYSE Arca Rule 8.900-E: FM Compounders Equity ETF, FM Focus Equity ETF, DoubleLine Shiller CAPE U.S. Equities ETF, Gabelli Automation ETF, Gabelli Commercial Aerospace and Defense ETF, Gabelli Growth Innovators ETF, and Gabelli Love Our Planet & People ETF. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange adopted NYSE Arca Rule 8.900-E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges, of Managed Portfolio Shares, which are securities issued by an actively managed open-end investment management company.<sup>4</sup>

Rule 8.900-E(b)(1) requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Managed Portfolio Shares on the Exchange. Pursuant to this provision, the Exchange submitted proposals to list and trade shares of Managed Portfolio Shares of the FM Compounders Equity ETF and FM Focus Equity ETF<sup>5</sup> (together, the “FM Funds”); the DoubleLine Shiller CAPE U.S. Equities ETF (the “DoubleLine Fund”); and the Gabelli Automation ETF, Gabelli Commercial Aerospace and Defense ETF, Gabelli Growth

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<sup>4</sup> See Securities Exchange Act Release No. 88648 (April 15, 2020), 85 FR 22200 (April 21, 2020) (SR-NYSEArca-2020-32) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New NYSE Arca Rule 8.900-E). Rule 8.900-E(c)(1) provides that the term “Managed Portfolio Share” means a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (“Investment Company”) organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (b) is issued in a Creation Unit, or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company’s Form N-1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit, or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

<sup>5</sup> The FM Focus Equity ETF was previously known as the FMC Excelsior Focus Equity ETF.

Innovators ETF, and Gabelli Love Our Planet & People ETF<sup>6</sup> (together, the “Gabelli Funds”) on the Exchange under NYSE Arca Rule 8.900-E.<sup>7</sup> The FM Funds are series of the Northern Lights Fund Trust IV, the DoubleLine Fund is a series of the DoubleLine ETF Trust, and the Gabelli Funds are series of the Gabelli ETFs Trust.<sup>8</sup> Each of the FM Funds, DoubleLine Fund, and Gabelli Funds (collectively, the “Funds”) operates pursuant to orders issued by the Commission under Section 6(c) of the Investment Company Act of 1940 (“1940 Act”) for exemptions from various provisions of the 1940 Act and rules thereunder, in response to applications by the Trusts for exemptive relief.<sup>9</sup> Each of the Exemptive Orders incorporates by reference the terms and conditions of a previous order granting the same relief sought in the respective applications for exemptive relief, as that order may be amended from time to time (the “Prior Reference Order”).<sup>10</sup> As set forth in the FM Funds Notices, DoubleLine Notice, and Gabelli Funds Order, the Funds’ investments will conform to the permissible investments as set forth in the Exemptive Application and Prior Reference Order and will be consistent with all requirements in the Exemptive Application and Prior Reference Order.<sup>11</sup> Under the Prior Reference Order, the names

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<sup>6</sup> The Gabelli Automation ETF was formerly known as the Gabelli Asset ETF, the Gabelli Commercial Aerospace and Defense ETF was formerly known as the Gabelli Equity ETF, and the Gabelli Love Our Planet & People ETF was formerly known as the Gabelli ESG ETF.

<sup>7</sup> See Securities Exchange Act Release Nos. 101503 (November 1, 2024), 89 FR 88317 (November 7, 2024) (SR-NYSEARCA-2024-88) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the FM Compounders Equity ETF Under Rule 8.900-E (Managed Portfolio Shares)) (the “FM Compounders Fund Notice”); 94629 (April 7, 2022), 87 FR 21993 (April 13, 2022) (SR-NYSEArca-2022-17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the FMC Excelsior Focus Equity ETF Under Rule 8.900-E (Managed Portfolio Shares)) (the “FM Focus Fund Notice” and, together with the FM Compounders Fund Notice, the “FM Funds Notices”); 94569 (March 31, 2022), 87 FR 19990 (April 6, 2022) (SR-NYSEArca-2022-16) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the DoubleLine Shiller CAPE U.S. Equities ETF Under Rule 8.900-E (Managed Portfolio Shares)) (the “DoubleLine Fund Notice”); 89663 (August 25, 2020), 85 FR 53868 (August 31, 2020) (SR-NYSEArca-2020-48) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of Gabelli ETFs Under Rule 8.900-E, Managed Portfolio Shares) (the “Gabelli Funds Order”).

<sup>8</sup> These trusts are referred to collectively herein as the “Trusts.”

<sup>9</sup> See Investment Company Act Release Nos. 34527 (March 8, 2022) (applicable to the DoubleLine Fund); 34537 (March 22, 2022) (applicable to the FM Funds); and 33708 (December 3, 2019) (applicable to the Gabelli Funds) (collectively, the “Exemptive Orders”).

<sup>10</sup> See Precidian ETFs Trust, et al., Investment Company Act Release No. 33477 (May 20, 2019). The Prior Reference Order was granted in response to an application for exemptive relief (the “Exemptive Application”) filed by Precidian ETFs Trust, Precidian ETF Trust II, Precidian Funds LLC and Foreside Fund Services, LLC (the “Applicants”).

<sup>11</sup> See FM Compounders Fund Notice, 89 FR at 88319; FM Focus Fund Notice, 87 FR at 21995; DoubleLine

and quantities of the instruments that constitute each of the Funds' Creation Baskets (as defined in the Prior Reference Order) must be a pro rata slice of each of the Funds' actual portfolios except for certain cash substitutions (the "Pro Rata Basket").

On November 8, 2024, the Applicants<sup>12</sup> filed to amend the Prior Reference Order to permit the use of Creation Baskets that include instruments that are not included, or are included but in different weightings, in each of the Funds' Pro Rata Baskets ("Custom Baskets").<sup>13</sup> On December 10, 2024, the Commission issued an order amending the Prior Reference Order to allow for the use of Custom Baskets (the "Amended Reference Order").<sup>14</sup> The Exchange now proposes to amend representations made in the FM Funds Notice, DoubleLine Notice, and Gabelli Funds Order to reflect the Amended Reference Order governing the listing and trading of the Funds, to permit each of the Funds to use Custom Baskets that include instruments that are not included, or are included but in different weightings, in each of the Funds' Pro Rata Baskets.

Except for this change, all other representations made in the Funds' respective rule filings remain unchanged and will continue to constitute continuing listing requirements for the Funds. The Funds will also continue to comply with the requirements of Rule 8.900-E.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>16</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and

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Fund Notice, 87 FR at 19992; Gabelli Funds Order, 85 FR at 53869.

<sup>12</sup> Precidian ETFs Trust agreed to be removed as an Applicant in the amendment filed on November 8, 2024.

<sup>13</sup> See Investment Company Act Release No. 35386 (November 14, 2024).

<sup>14</sup> See Investment Company Act Release No. 35411 (December 10, 2024).

<sup>15</sup> 15 U.S.C. 78f(b).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it is intended to ensure that each of the Funds will operate consistent with the terms and conditions of the Amended Reference Order. The proposed change would permit the Funds to use Custom Baskets to the extent consistent with the Amended Reference Order, which would expand the universe of instruments or modify the weighting of presently allowed instruments in which each Fund is permitted to invest. Except for this change, all other representations made in the Funds' respective rule filings remain unchanged and will continue to constitute continuing listing requirements for the Funds.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. As noted above, the proposed rule change reflects amendments to the Prior Reference Order applicable to the Funds and would thus permit the Funds to operate consistent with their exemptive relief. The Exchange does not believe that the proposed change imposes any burden on competition, and, to the extent that the proposed rule change would continue to permit listing and trading of the Funds and facilitate the Funds' use of Custom Baskets, the Exchange believes that the proposal could promote competition among various ETF products, to the benefit of investors.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Pursuant to Section 19(b)(3)(A) of the Act<sup>17</sup> and Rule 19b-4(f)(6)<sup>18</sup> thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>19</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>20</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In connection with the Amended Reference Order, the Exchange proposes to amend representations made in the FM Funds Notice, DoubleLine Notice, and Gabelli Funds Order to permit the Funds to use Custom Baskets that include instruments that are not included, or are included but in different weightings, in each of the Funds' Custom Baskets to the extent consistent with the Amended Reference Order. The Exchange further represents that, except for the proposed change, all other representations made in the FM Funds Notice, DoubleLine Notice, and Gabelli Funds Order remain unchanged and will continue to constitute continuing listing requirements for the Funds, the shares of which are currently listed and trading on the Exchange. The Exchange also states that the Funds will continue to comply with the requirements of NYSE

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. See id. The Exchange has satisfied this requirement.

<sup>20</sup> 17 CFR 240.19b-4(f)(6)(iii).

Arca Rule 8.900-E, which governs the initial and continued listing and trading of Managed Portfolio Shares. As such, the proposal, which is designed to ensure that each of the Funds will operate in compliance with the terms and conditions of the Amended Reference Order, raises no novel legal or regulatory issues. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>21</sup>

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NYSEARCA-2025-51 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

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<sup>21</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to file number SR-NYSEARCA-2025-51. 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 website (<https://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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEARCA-2025-51 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Sherry R. Haywood,**  
*Assistant Secretary.*

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<sup>22</sup> 17 CFR 200.30-3(a)(12), (59).