



## Information Circular: Claymore Exchange-Traded Funds

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**To:** Head Traders, Technical Contacts, Compliance Officers, Head of ETF Trading, Structured Products Traders

**From:** William Slattery, Director, NASDAQ Listing Qualifications Department

**DATE:** April 3, 2007

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### Background Information on the Funds

The Claymore Exchange-Traded Fund Trust (the "Trust") is an investment company registered under the Investment Company Act of 1940, as amended ("1940 Act"). The Trust offers several separate exchange-traded "index funds" (the "Funds"). The shares of each Fund are referred to herein as "Shares." See Appendix A for a list of the Funds that commenced trading on NASDAQ on an unlisted trading privileges ("UTP") basis on April 2, 2007.

As discussed in greater detail below, the investment objective of each of the Funds is to replicate as closely as possible, before fees and expenses, the performance of a specified market index.

The investment objective of BMV is to provide investment results that correspond generally to the performance, before fees and expenses, of the BIR Leaders Mid-Cap Value Index. The index is comprised of approximately 100 stocks selected from a universe of mid-capitalization value common stocks or American Depositary Receipts ("ADRs") listed on U.S. exchanges. The universe is defined as those stocks with a market capitalization between approximately \$2 billion and \$10 billion.

The investment objective of BST is to provide investment results that correspond generally to the performance, before fees and expenses, of the BIR Leaders 50 Index. The index is comprised of 50 stocks selected from a universe of common stocks and ADRs listed on U.S. exchanges.

The investment objective of CZA is to provide investment results that correspond generally to the performance, before fees and expenses, of the Zacks Mid-Cap Core Index. The index is comprised of 100 stocks selected from a universe of mid-capitalization common stocks and ADRs. The universe ranges from approximately \$2 billion in market capitalization to \$10 billion in market capitalization.

The investment objective of OTR is to provide investment results that correspond generally to the performance, before fees and expenses, of the Ocean Tomo 300 Patent Growth Index. The index is comprised of 60 stocks selected from a universe of U.S. listed companies. The universe includes the 300 companies that comprise the

Ocean Tomo 300 Patent Index without limit on market capitalization, but which are primarily mid-to-large capitalization companies with capitalization in excess of \$1 billion.

The investment objective of BES is to provide investment results that correspond generally to the performance, before fees and expenses, of the BIR Leaders Small-Cap Core Index. The index is comprised of approximately 150 stocks selected from a universe of small-capitalization core common stocks or ADRs listed on U.S. exchanges. The universe is currently defined as stocks with a market capitalization of under \$2 billion.

The investment objective of XGC is to provide investment results that correspond generally to the performance, before fees and expenses, of the Great Companies Large-Cap Growth Index. The index is composed of between 35 and 50 securities selected by using a quantitative methodology based on earnings growth, market price relative to "True Worth" and the traits of "great companies" as detailed in the book Great Companies, Great Returns, by Jim Huguot, published by Random House (1999).

Each Fund will generally invest in all the stocks comprising its relevant index in proportion to their weightings in such index. However, under various circumstances, it may not be possible or practical to purchase all of the stocks in those weightings and a Fund may instead purchase a sample of stocks in its index in proportions expected to replicate generally the performance of the index as a whole.

Claymore Advisors, LLC is the investment adviser for the Funds. Claymore Securities, Inc. is the distributor for the Funds. The Bank of New York is the custodian and fund accounting and transfer agent for the Funds.

As described more fully in the Trust's prospectus and Statement of Additional Information ("SAI"), the Funds will issue and redeem Shares on a continuous basis at their net asset value ("NAV") only in large blocks of 50,000 Shares (each, a "Creation Unit"). Creation Units will be issued and redeemed principally in-kind for securities included in the underlying index. Except when aggregated in Creation Units, the Shares may not be redeemed with the Funds.

Dividends from net investment income, if any, will be distributed to shareholders annually. Net capital gains, if any, will be distributed to shareholders at least annually. Dividends may be declared and paid more frequently.

The Depository Trust Company ("DTC") serves as securities depository for the Shares, which may be held only in book-entry form; stock certificates will not be issued. DTC, or its nominee, is the record or registered owner of all outstanding Shares.

The NAV per Share will be determined as of the close of trading (normally, 4:00 p.m., Eastern Time ("ET")) on each day that the New York Stock Exchange is open for business (a "Business Day"). The NAV is calculated by dividing the value of the net assets of the Fund (i.e., the value of its total assets less total liabilities) by the total number of Shares outstanding, rounded to the nearest cent. NAV will be available from the Distributor and will also be available to National Securities Clearing

Corporation (“NSCC”) participants through data made available from NSCC. The current index values for the Shares will be disseminated to data vendors every 15 seconds.

The registration statement for the Funds describes the various fees and expenses for each Fund’s Shares.

For a more complete description of the Funds and the underlying indexes, visit the Funds’ website at [www.claymore.com](http://www.claymore.com).

## **Purchases and Redemptions in Creation Unit Size**

NASDAQ members are hereby informed that procedures for purchases and redemptions of Shares in Creation Unit Size are described in the Trusts’ prospectus and SAI and that Shares are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.

## **Principal Risks**

Interested persons are referred to the discussion in the prospectus for a Fund of the principal risks of an investment in that Fund. These include, but are not limited to, tracking error risk (factors causing a Fund’s performance to not match the performance of the underlying index), market trading risk (i.e., trading halts, trading above or below net asset value), stock market risk, investment style risk, interest rate risk, concentration risk, non-diversification risk, issuer-specific risk, management risk, lack of market liquidity, foreign securities risk and medium-sized company risk.

## **Exchange Rules Applicable to Trading in the Shares**

Trading in the Shares on NASDAQ is on a UTP basis and is subject to [NASDAQ equity trading rules](#).

## **Trading Hours**

The values of the index underlying the Shares are disseminated to data vendors every 15 seconds. The Shares will trade on NASDAQ between 7:00 a.m. and 8:00 p.m., ET, unless otherwise indicated.

## **Suitability**

Trading in the Shares on NASDAQ will be subject to the provisions of [NASDAQ Rule 2310](#). Members recommending transactions in the Shares to customers should make a determination that the recommendation is suitable for the customer. In addition, members must possess sufficient information to satisfy the “know your customer” obligation that is embedded in the NASDAQ Conduct Rules.

Members also should review [NASD Notice to Members 03-71](#) or guidance on trading these products. The Notice reminds members of their obligations to: (1) conduct adequate due diligence to understand the features of the product; (2) perform a reasonable-basis suitability analysis; (3) perform customer-specific suitability analysis in connection with any recommended transactions; (4) provide a balanced

disclosure of both the risks and rewards associated with the particular product, especially when selling to retail investors; (5) implement appropriate internal controls; and (6) train registered persons regarding the features, risk and suitability of these products.

## Trading Halts

NASDAQ will halt trading in the Shares of a Fund in accordance with [NASDAQ Rule 4120](#). The grounds for a halt under NASDAQ Rule 4120 include a halt by the primary market because the intraday indicative value of the Fund and/or the value of its underlying index are not being disseminated as required, or a halt for other regulatory reasons. In addition, NASDAQ will also stop trading the Shares of a Fund if the primary market de-lists the Fund.

## Delivery of a Prospectus

NASDAQ members should be mindful of applicable prospectus delivery requirements under the federal securities laws with respect to transactions in the Funds.

Prospectuses may be obtained through the [Funds' website](#). The prospectus for the Funds does not contain all of the information set forth in the Fund's registration statement (including the exhibits to the registration statement), parts of which have been omitted in accordance with the rules and regulations of the Securities and Exchange Commission ("SEC"). For further information about the Funds, please refer to the registration statement.

In the event that the Funds rely upon an order by the SEC exempting the Shares from certain prospectus delivery requirements under Section 24(d) of the 1940 Act and in the future make available a written product description, [NASDAQ Rule 4420\(j\)\(2\)](#) requires that NASDAQ members provide to all purchasers of Shares a written description of the terms and characteristics of such securities, in a form prepared by the Trust for the Funds, no later than the time a confirmation of the first transaction in the Shares is delivered to such purchaser. In addition, NASDAQ members shall include such a written description with any sales material relating to the Shares that is provided to customers or the public. Any other written materials provided by a NASDAQ member to customers or the public making specific reference to the ETF Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of the Shares of the Fund has been prepared by the Trust and is available from your broker. It is recommended that you obtain and review such circular before purchasing Shares of the Fund. In addition, upon request you may obtain from your broker a prospectus for Shares of the Fund."

A NASDAQ member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to NASDAQ member under this rule.

Upon request of a customer, NASDAQ members also shall provide a copy of the Prospectus.

## **Exemptive, Interpretive and No-Action Relief Under Federal Securities Regulations**

The SEC has issued exemptive, interpretive or no-action relief from certain provisions of rules under the Securities Exchange Act of 1934 (the "Act") regarding trading in the above mentioned exchange-traded funds.

### **Short Sale Rules**

Transactions in ETFs will not be subject to "tick" requirements of the SEC short sale rule (SEC Rule 10a-1) or the "bid" requirements of the NASDAQ short sale rule ([NASDAQ Rule 3350](#)). Short orders must be marked SHORT or SHORT EXEMPT. (See paragraph below regarding Rule 200(g) of Regulation SHO.)

### **Rule 200(g) of Regulation SHO**

The SEC Division of Market Regulation has stated that the Division will not recommend enforcement action under Rule 200(g) of Regulation SHO if a broker-dealer marks "short" rather than "short exempt" a short sale effected in the Funds, subject to specified conditions, including that a broker-dealer executing exempt short sales will mark such sales as "short" and in no event will such sales be marked "long". (See [letter](#) from James A. Brigagliano, Assistant Director, Division of Market Regulation, SEC, to Ira Hammerman, Senior Vice President and General Counsel, Securities Industry Association, dated January 3, 2005.)

### **Regulation M Exemptions**

Generally, Rules 101 and 102 of Regulation M prohibit any "distribution participant" and its "affiliated purchasers" from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of a distribution until after the applicable restricted period, except as specifically permitted in Regulation M. The provisions of the Rules apply to underwriters, prospective underwriters, brokers, dealers and other persons who have agreed to participate or are participating in a distribution of securities.

The SEC has granted an exemption from Rule 101 under Regulation M to permit persons participating in a distribution of shares of the above-mentioned Funds to engage in secondary market transactions in such shares during their participation in such a distribution. In addition, the SEC has granted relief under Regulation M to permit persons who may be deemed to be participating in the distribution of shares of the above-mentioned Funds (i) to purchase securities for the purpose of purchasing Creation Unit Aggregations of Fund Shares and to (ii) tender securities for redemption in Creation Unit Aggregations. Further, the SEC has clarified that the tender of Fund Shares to the Funds for redemption does not constitute a bid for or purchase of any of the Funds' securities during the restricted period of Rule 101. The SEC has also granted an exemption pursuant to paragraph (e) of Rule 102 under Regulation M to allow the redemption of Fund Shares in Creation Unit Aggregations during the continuous offering of shares.

## **Customer Confirmations for Creation or Redemption of Fund Shares (SEC Rule 10b-10)**

Broker-dealers who handle purchases or redemptions of Fund Shares in Creation Unit size for customers will be permitted to provide such customers with a statement of the number of Creation Unit Aggregations created or redeemed without providing a statement of the identity, number and price of shares of the individual securities tendered to the Fund for purposes of purchasing Creation Unit Aggregations ("Deposit Securities") or the identity, number and price of shares to be delivered by the Trust for the Fund to the redeeming holder ("Redemption Securities"). The composition of the securities required to be tendered to the Fund for creation purposes and of the securities to be delivered on redemption will be disseminated each business day and will be applicable to requests for creations or redemption, as the case may be, on that day. This exemptive relief under Rule 10b-10 with respect to creations and redemptions is subject to the following conditions:

1. Confirmations to customers engaging in creations or redemptions must state that all information required by Rule 10b-10 will be provided upon request
2. Any such request by a customer for information required by Rule 10b-10 will be filed in a timely manner, in accordance with Rule 10b-10(c)
3. Except for the identity, number and price of shares of the component securities of the Deposit Securities and Redemption Securities, as described above, confirmations to 10b-10(a)

## **SEC Rule 14e-5**

An exemption from Rule 14e-5 has been granted to permit any person acting as a dealer-manager of a tender offer for a component security of the Funds to (1) redeem Fund Shares in Creation Unit Aggregations from the issuer that may include a security subject to such tender offer and (2) to purchase Fund Shares during such tender offer. In addition, a no-action position has been taken under Rule 14e-5 if a broker-dealer acting as a dealer-manager of a tender offer for a security of the Fund purchases or arranges to purchase such securities in the secondary market for the purpose of tendering such securities to purchase one or more Creation Unit Aggregations of Shares, if made in conformance with the following:

1. such bids or purchases are effected in the ordinary course of business, in connection with a basket of 20 or more securities in which any security that is the subject of a distribution, or any reference security, does not comprise more than 5% of the value of the basket purchased; or
2. purchases are effected as adjustments to such basket in the ordinary course of business as a result of a change in the composition of the underlying index; and
3. such bids or purchases are not effected for the purpose of facilitating such tender offer.

## **Section 11(d)(1); SEC Rules 11d1-1 and 11d1-2**

Section 11(d)(1) of the Act generally prohibits a person who is both a broker and a dealer from effecting any transaction in which the broker-dealer extends credit to a customer on any security which was part of a new issue in the distribution of which

he participated as a member of a selling syndicate or group within thirty days prior to such transaction. The SEC has clarified that Section 11(d)(1) does not apply to broker-dealers that are not Authorized Participants (and, therefore, do not create Creation Unit Aggregations) that engage in both proprietary and customer transactions in Shares of the Funds in the secondary market, and for broker-dealer Authorized Participants that engage in creations of Creation Unit Aggregations. This relief is subject to specific conditions, including the condition that such broker-dealer (whether or not an Authorized Participant) does not, directly or indirectly, receive from the fund complex any payment, compensation or other economic incentive to promote or sell the Shares of the Funds to persons outside the fund complex, other than non-cash compensation permitted under NASD Rule 2830(I)(5)(A), (B) or (C). (See [letter](#) from Catherine McGuire, Chief Counsel, SEC Division of Market Regulation, to Securities Industry Association, Derivative Products Committee, dated November 21, 2005.) The SEC also has taken a no-action position under Section 11(d)(1) of the Act that broker-dealers may treat Shares of the Funds, for purposes of Rule 11d1-2, as "securities issued by a registered open-end investment company as defined in the Investment Company Act" and thereby extend credit or maintain or arrange for the extension or maintenance of credit on Shares that have been owned by the persons to whom credit is provided for more than 30 days, in reliance on the exemption contained in the rule.

### **SEC Rule 15c1-5 and 15c1-6**

The SEC has taken a no-action position with respect to Rule 15c1-5 and Rule 15c1-6 as to the required disclosure of control by a broker or dealer with respect to creations and redemptions of Fund Shares and secondary market transactions therein. (See [letter](#) from Catherine McGuire, Chief Counsel, SEC Division of Market Regulation, to Securities Industry Association, Derivative Products Committee, dated November 21, 2005.)

**This Information Circular is not a statutory prospectus. NASDAQ members should consult the Funds' prospectus and/or the Funds' website at [www.claymore.com](http://www.claymore.com) for relevant information.**

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Inquiries regarding this Information Circular should be directed to:

- [Will Slattery](#), Director, NASDAQ Listing Qualifications, at 301.978.8088
- [NASDAQ Market Sales](#) at 800.846.0477

## Appendix A

<b>Exchange-Traded Fund</b>	<b>Symbol</b>	<b>CUSIP Number</b>
Claymore/Zacks Mid-Cap Core ETF	CZA	18383M720
Claymore/BIR Leaders Small-Cap Core ETF	BES	18383M837
Claymore/BIR Leaders Mid-Cap Value ETF	BMV	18383M845
Claymore/BIR Leaders 50 ETF	BST	18383M852
Claymore/Ocean Tomo Growth Index ETF	OTR	18383M779
Claymore/Great Companies Large-Cap Growth Index ETF	XGC	18383M811