

## Investors Exchange Product Information Circular 2021 – 0225

**Date:** August 5, 2021

**Re:** International Drawdown Managed Equity ETF

This Information Circular is being issued to advise you that the following securities have been approved for trading pursuant to unlisted trading privileges (“UTP”) on the Investors Exchange (“IEX” or the “Exchange”) as UTP Derivative Securities pursuant to IEX Rule 16.160. Compliance and supervisory personnel should note that, among other things, this Information Circular discusses the need to deliver a prospectus to customers purchasing shares of the exchange-traded funds. Please forward this Information Circular to interested persons within your organization.

### **Exchange-Traded Fund**

### **Symbol**

International Drawdown Managed Equity ETF

IDME

Issuer/Trust: Aptus Capital Advisors/ETF Series Solutions

Issuer/Trust Website: <https://aptuscapitaladvisors.com/>

Primary Listing Exchange: Cboe BZX Exchange, Inc.

The purpose of this information circular is to outline various rules and policies that will be applicable to trading in these new products pursuant to the Exchange’s unlisted trading privileges, as well as to provide certain characteristics and features of the products. For a more complete description of the Issuer, the securities and the underlying market instruments or indexes, visit the Issuer Website, consult the Prospectus available on the Issuer Website or examine the Issuer Registration Statement or review the most current information bulletin issued by the Primary Listing Exchange.

### **Background Information on the Funds**

ETF Series Solutions (the “Trust”) is a management investment company registered under the Investment Company Act of 1940, as amended (the “1940 Act”), consisting of several investment portfolios. This circular relates only to the Funds listed above (each, a “Fund” and together, the “Funds”). The shares of the Fund are referred to herein as “Shares”.

The Fund is an actively managed exchange-traded fund (“ETF”) that seeks to achieve its objective principally by investing in a portfolio of other ETFs that invest in equity securities of non-U.S. (international) companies in developed and emerging markets throughout the world, while purchasing and/or writing (selling) exchange-listed call or put options on one or more broad-based indexes or ETFs that track the performance of equity markets outside of the United States to (i) limit downside (“drawdown”) risk, (ii) create additional equity exposure, and/or (iii) generate premiums from writing call options on the Fund’s equity investments.

The Fund may also invest in depositary receipts representing individual equity securities of non-U.S. companies of any size, although such depositary receipts will generally comprise less than 20% of the Fund’s net assets. The Fund may also purchase and sell options on such depositary receipts.

### ***Equity Strategy***

Under normal circumstances, at least 80% of the Fund’s net assets (plus borrowings for investment purposes) will be invested in equity securities. For purposes of such policy, the Fund considers equity securities to include common stocks, depositary receipts, options whose reference asset is an equity security, equity securities index, or equity ETF, and ETFs that, under normal circumstances, invest at least 80% of their net assets in equity securities.

Aptus Capital Advisors, LLC, the Fund's investment adviser ("Aptus" or the "Adviser"), generally expects to allocate approximately 50–90% of the Fund's exposure to developed markets and approximately 10– 50% to emerging markets. The Adviser determines this allocation, as well as further allocations to particular countries or regions, based on a "yield plus growth" framework, which takes into account fundamental characteristics such as yield, growth, and valuation, along with momentum, to identify attractive markets, regions, countries, or individual securities. Typically, such investments will have either an attractive combination of yield plus growth relative to the overall market and/or strong momentum relative to the overall market.

Aptus selects the ETFs in which the Fund invests based on a variety of characteristics, including the particular geographic exposure provided by the portfolio of securities held by the ETF, the cost to invest in and trade the ETF's shares, and the size of the ETF, among others. Aptus selects the individual depositary receipts in which the Fund invests based on a company's fundamental and momentum characteristics to try to identify attractive opportunities for growth.

### *Options Strategy*

The Adviser seeks to limit the Fund's exposure to equity market declines primarily by purchasing exchange-listed put options, or utilizing a combination of purchased and written (sold) put options (known as a "spread"), on one or more equity indexes or ETFs (each, a "reference asset") that track a portfolio of non-U.S. equity securities (together, "Equity Puts"). The reference asset for an option will generally reflect the overall equity market for emerging markets or developed markets outside the United States, the equity market of a particular region or country (other than the United States), or a particular depositary receipt held by the Fund.

A put option gives the purchaser the right to sell shares of the reference asset at a specified price ("strike price") prior to a specified date ("expiration date"). The purchaser of a put option pays a cost (premium) to purchase the put option. In the event the reference asset declines in value below the strike price and the holder exercises its put option, the holder will be entitled to receive the difference between the value of the reference asset and the strike price (which gain is offset by the premium originally paid by the holder). In the event the reference asset closes above the strike price as of the expiration date, the put option may end up worthless to the holder, but the holder's loss is limited to the amount of premium it paid.

The expiration date for the Fund's Equity Puts will typically be between one and six months from the time of purchase, although such periods to expiration may be shorter or longer. Additionally, the strike price for the Fund's Equity Puts will typically be within 10% of the price of the reference asset at the time of purchase ("near-the-money"), although the Adviser may utilize strike prices that are out-of-the- money (also known as a "tail hedge"). The Adviser will actively manage the Fund's Equity Puts as markets move or events occur by rolling forward expiration dates or increasing or decreasing the Fund's investment in Equity Puts.

In addition to purchasing Equity Puts, the Adviser may write (sell) Equity Puts. A written (sold) put option obligates the seller to buy shares of the reference asset from the holder at a strike price until the expiration date. The writer (seller) of the put option receives an amount (premium) for writing (selling) the option. In the event the reference asset declines in value below the strike price and the holder exercises the put option, the writer (seller) of the put option will have to pay the difference between the strike price and the value of the reference asset or deliver the reference asset (which loss is offset by the premium initially received) In the event the reference asset appreciates in value, the put option may end up worthless to the holder and the writer (seller) of the put option retains the premium. The Adviser generally expects to invest less than 5% of the Fund's net assets in Equity Puts at the time of investment.

The Adviser may also purchase call options or utilize call option spreads on the Cboe Volatility Index® (the "VIX Index"). The VIX Index reflects a calculation designed to produce a measure of constant, 30- day expected volatility of the U.S. stock market, derived from real-time prices of S&P 500® Index call and put options. A call option gives the purchaser the right to purchase shares of the reference asset at a specified strike price prior to a specified expiration date. The purchaser pays a cost (premium) to purchase the call option. In the event the reference asset appreciates in value, the value of the call option will generally increase, and in the event the reference asset declines in value, the call option may end up worthless to the

holder and the premium may be lost. If the Fund utilizes a call option spread on the VIX Index, the Fund will purchase and write call options on the VIX Index. In the event the reference asset appreciates in value above the strike price and the holder exercises the call option, the writer (seller) of the call option will have to pay the difference between the strike price and the value of the reference asset or deliver the reference asset (which loss is offset by the premium initially received). In the event the reference asset declines in value, the call option may end up worthless to the holder and the writer (seller) of the call option retains the premium. The Adviser generally expects to invest less than 1% of the Fund's net assets in VIX Index call options at the time of investment.

In addition, the Adviser may purchase call options on one or more equity indexes or ETFs or on a particular depositary receipt held by the Fund to opportunistically add additional exposure to such securities. The Adviser may also write (sell) call options on up to 100% of the equity securities owned by the Fund to generate additional income for the Fund in the form of premiums.

The Fund is considered to be non-diversified, which means that it may invest more of its assets in the securities of a single issuer or a smaller number of issuers than if it were a diversified fund. Additionally, the Adviser may actively and frequently purchase and sell securities for the Fund.

For more information regarding the Funds investment strategy, please read the prospectus for the Fund.

As described more fully in the Prospectus and Statement of Additional Information, the Fund 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 Fund.

Shares are held in book-entry form, which means that no Share certificates are issued. The Depository Trust Company or its nominee is the record owner of all outstanding Shares of the Funds and is recognized as the owner of all Shares for all purposes.

The NAV per Share for each Fund is computed 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. Expenses and fees are accrued daily and taken into account for purposes of determining NAV. The NAV of each Fund is determined each business day after the close of trading (ordinarily 4:00 p.m., Eastern Time or "ET") of the New York Stock Exchange. Any assets or liabilities denominated in currencies other than the U.S. dollar are converted into U.S. dollars at the current market rates on the date of valuation as quoted by one or more sources.

The registration statement for the Fund describes the various fees and expenses for the Fund's Shares. For a more complete description of the Fund visit the Issuer Website.

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

IEX Members are hereby informed that procedures for purchases and redemptions of Shares in Creation Units are described in the Trust's Prospectus and SAI and that Shares are not individually redeemable but are redeemable only in Creation Unit aggregations or multiples thereof.

### **Principal Risks**

As with any investment, you could lose all or part of your investment in the Funds, and the Funds' performance could trail that of other investments. These Funds are subject to the principal risks noted below, any of which may adversely affect the Funds' net asset value per share ("NAV"), trading price, yield, total return and ability to meet its investment objective. Interested persons are referred to the discussion in the prospectus for the Funds of the principal risks of an investment in the Funds. These include but are not limited to capital controls and sanctions risk, currency exchange rate risk, depositary receipt risk, derivatives security risk, emerging markets risk, equity market risk, ETF risk, foreign securities risk, geographic investment

risk, high portfolio turnover risk, management risk, market capitalization risk, new fund risk, non-diversification risk, options risk, other investment companies risk, tail hedge risk and tax risk.

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

Trading in the Shares on IEX is subject to IEX trading rules.

### **Trading Hours**

The value of the Index underlying the Shares will be disseminated to data vendors every 15 seconds during the Regular Trading Session.

The Shares will trade on IEX between 8:00 a.m. and 5:00 p.m. Please note that trading in the Shares during the Exchange's Pre-Market and Post-Market Sessions ("Extended Market Sessions") may result in additional trading risks which include: (1) that the current underlying indicative value may not be updated during the Extended Market Sessions, (2) lower liquidity in the Extended Market Sessions may impact pricing, (3) higher volatility in the Extended Market Sessions may impact pricing, (4) wider spreads may occur in the Extended Markets Sessions, and (5) because the indicative value is not calculated or widely disseminated during the Extended Market Sessions, an investor who is unable to calculate an implied value for the Shares in those sessions may be at a disadvantage to market professionals.

### **Delivery of a Prospectus**

Exchange Members should be mindful of applicable prospectus delivery requirements under the federal securities laws with respect to transactions in the Fund. Prospectuses may be obtained through the Fund's website. The Prospectus for the Fund does not contain all of the information set forth in the Funds Registration Statement (including the exhibits to the Registration Statement), parts of which have been omitted in accordance with the rules and regulations of the SEC. For further information about the Fund, please refer to its Registration Statement.

In the event that the Fund relies 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, Exchange Rules require that Exchange Members provide to all purchasers of Shares a written description of the terms and characteristics of such securities, in a form prepared by the Issuer of the Fund, no later than the time a confirmation of the first transaction in the Shares is delivered to such purchaser. In addition, Exchange 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 an IEX member to customers or the public making specific reference to the Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the UTP Derivative Securities] has been prepared by the [open-ended management investment company name] and is available from your broker. It is recommended that you obtain and review such circular before purchasing [the UTP Derivative Securities]."

An Exchange 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 such Exchange member under this rule. Upon request of a customer, Exchange Members also shall provide a copy of the Prospectus.

### **Suitability**

Trading in the securities on the Exchange will be subject to the provisions of IEX Rule 3.170 and other applicable suitability rules. Members recommending transactions in the securities to customers should make a determination that the recommendation is suitable for the customer.

## **Trading Halts**

The Exchange will halt trading in the Shares of a security in accordance with the Exchange's Rules. The grounds for a halt include a halt because the intraday indicative value of the security and/or the value of its underlying index are not being disseminated as required, a halt for other regulatory reasons or due to other conditions or circumstances deemed to be detrimental to the maintenance of a free and orderly market.

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

The Securities and Exchange Commission (the "SEC") has issued letters granting exemptive, interpretive and no-action relief from certain provisions of rules under the Securities Exchange Act of 1934 for exchange- traded securities listed and traded on a registered national securities exchange that meet certain criteria.

AS WHAT FOLLOWS IS ONLY A SUMMARY OF THE RELIEF OUTLINED IN THE NO-ACTION LETTERS REFERENCED ABOVE, THE EXCHANGE ADVISES INTERESTED PARTIES TO CONSULT THE NO-ACTION LETTERS FOR MORE COMPLETE INFORMATION REGARDING THE MATTERS COVERED THEREIN AND THE APPLICABILITY OF THE RELIEF GRANTED IN RESPECT OF TRADING IN SECURITIES. INTERESTED PARTIES SHOULD ALSO CONSULT THEIR PROFESSIONAL ADVISORS.

## **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 Fund 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 Fund (i) to purchase securities for the purpose of purchasing Creation Unit Aggregations of Fund Shares and (ii) to tender securities for redemption in Creation Unit Aggregations. Further, the SEC has clarified that the tender of Fund Shares to the Fund 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.

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

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 redemption 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); and
- 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 customers must disclose all other information required by Rule 10b-10(a).

### **Section 11(d)(1); 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 a Fund 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 a Fund to persons outside the fund complex, other than non-cash compensation permitted under NASD Rule 2830(l)(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 a Fund, 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.

### **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 Fund (1) to 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 purchase; 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.

### **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. Members should consult the Prospectus for a security and the security's website for relevant information.

Please contact IEX Regulation at 646-343-2000 with any inquiries regarding this Information Circular.