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## INFORMATION CIRCULAR: FIRST TRUST EXCHANGE-TRADED FUND III

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

**FROM:** Nasdaq / BX / PHLX Listing Qualifications Department

**DATE:** August 23, 2017

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### EXCHANGE-TRADED FUND

### SYMBOL

### CUSIP #

First Trust Institutional Preferred Securities and Income ETF

FPEI

33739P855

### BACKGROUND INFORMATION ON THE FUND

The First Trust Exchange-Traded Fund III (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 First Trust Institutional Preferred Securities and Income ETF (the "Fund"). First Trust Advisors L.P. (the "Adviser") serves as the investment adviser to the Fund. The shares of the Fund are referred to herein as "Shares."

The Fund investment objective is to seek total return and to provide current income.

Under normal market conditions, the Fund invests at least 80% of its net assets (including investment borrowings) in institutional preferred securities and income-producing debt securities ("Income Securities"). Preferred securities are a type of equity security that have preference over common stock in the payment of distributions and the liquidation of a company's assets, but are generally junior to all forms of the company's debt, including both senior and subordinated debt. The Fund's investments in preferred securities will primarily be in institutional preferred securities. Institutional preferred securities are targeted to institutional, rather than retail, investors, are generally traded over-the-counter and may also be known as "\$1,000 par preferred securities." They are typically issued in large, institutional lot sizes by U.S. and non-U.S. financial services companies and other companies. While all income-producing debt securities will be categorized as "Income Securities" for purposes of the 80% test above, the Income Securities in which the Fund intends to invest as part of its principal investment strategy include hybrid capital securities, contingent capital securities, U.S. and non-U.S. corporate bonds and convertible securities.

In selecting securities for the Fund, the investment strategy of the Fund's sub-advisor is driven by comprehensive analysis of institutional preferred securities and Income Securities with a goal of investing in securities representing the best relative value in the market. The style of active management by the Fund's sub-advisor combines a bottom-up and top-down approach to security selection that encompasses three significant areas of analysis: credit fundamentals; relative value;

and technical aspects of the securities, which may include, but are not limited to, interest rate sensitivity, call features, maturities, trading volumes, liquidity and pricing inefficiencies. The bottom-up analysis focuses on individual security analysis, idiosyncratic risks, credit fundamentals and opportunistic trading. The top-down analysis focuses on sector and industry analysis, duration and interest rate analysis, capital structure positioning and systemic risks.

In general, the preferred securities held by the Fund are expected to be issued by companies in the financial, communications, consumer, government, utilities, energy, materials, industrial and technology sectors. However, because the issuers of institutional preferred securities are often financial companies, the Fund will concentrate its investments by investing at least 25% of its total assets in the group of industries that comprise the financial sector, which includes banks, thrifts, brokerage firms, broker-dealers, investment banks, finance companies and companies involved in the insurance industry. Although the Fund may invest in individual issues of institutional preferred securities with market capitalizations as low as \$50 million, the Fund generally will not invest in individual issues of institutional preferred securities if the issuer has a total market capitalization of less than \$500 million. The Fund may also invest in preferred securities issued by real estate investment trusts ("REITs").

Along with its investments in institutional preferred securities, the Fund may also invest in retail preferred securities. While institutional preferred securities are generally targeted to institutional investors and trade over-the-counter, retail preferred securities are targeted to retail investors and are exchange-traded at single-share prices of \$25, \$50 or \$100. Both the institutional and retail preferred securities held by the Fund will generally pay fixed or adjustable-rate distributions to the Fund. Certain preferred securities may be issued by trusts or other special purpose entities created by companies specifically for the purpose of issuing such securities.

Additionally, the Fund may invest in Income Securities that have certain characteristics similar to preferred securities. These securities include hybrid capital securities, contingent capital securities and other types of securities that resemble preferred securities but that do not have the traditional features described above. Hybrid capital securities possess varying combinations of features of both debt and traditional preferred securities and as such they may constitute senior debt, junior debt or preferred shares in an issuer's capital structure. Contingent convertible securities ("CoCos") are issued primarily by non-U.S. financial institutions that have loss absorption mechanisms benefitting the issuer built into their terms. These loss absorption mechanisms may include automatic conversion into the issuer's common stock or an automatic write down of the security's principal amount upon the occurrence of specific triggers. Certain CoCos may be considered to be high-yield securities (a.k.a. "junk" bonds) and, to the extent a CoCo held by the Fund undergoes a write down, the Fund may lose some or all of its original investment in the CoCo.

The Fund may also invest in floating-rate and fixed-to-floating rate securities as well. Floating-rate and fixed-to-floating rate securities may be traditional preferred or hybrid capital securities. Floating-rate securities pay a rate of income that resets periodically based on short and/or longer-term interest rate benchmarks. If the associated interest rate benchmark rises, the coupon offered by the floating-rate security may rise as well, making such securities less sensitive to rising interest rates (or yields). Similarly, a fixed-to-floating rate security may be less price-sensitive to rising interest rates (or yields), because it has a rate of payment that is fixed for a certain period (typically five, ten or thirty years when first issued), after which period a floating-rate of payment applies.

Additional Income Securities held by the Fund may include corporate bonds and convertible securities. The broad category of corporate debt securities includes debt issued by U.S. and non-U.S. companies of all kinds, including those with small-, mid- and large-capitalizations. Corporate debt may carry fixed or floating rates of interest. The Fund may invest without limitation in, preferred securities, hybrid capital securities and Income Securities rated below investment grade (BB+/Ba1 or lower) at the time of purchase, which is commonly referred to as high yield securities or “junk bonds.” The Fund may invest in Income Securities of any duration and will not target an overall duration for its portfolio of Income Securities.

The Fund may invest in U.S. and non-U.S. debt and equity securities that are traded over-the-counter or are listed on an exchange. The Fund may have exposure to certain emerging markets through its investments in non-U.S. securities. The Fund may also hold investments that are denominated in non-U.S. currencies, or in securities that provide exposure to such currencies, currency exchange rates or interest rates denominated in such currencies. The Fund may also invest U.S. dollar-denominated depository receipts and U.S. dollar-denominated foreign securities.

The Fund may have significant investments in securities that are offered pursuant Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). Rule 144A securities are considered restricted securities because they may not be sold to the general public without an effective registration statement under the Securities Act. Rule 144A is designed to facilitate efficient trading among institutional investors by permitting the sale of certain unregistered securities to qualified institutional buyers. The restriction on public sale may make it more difficult to value such securities, limit the Fund’s ability to dispose of them and lower the amount the Fund could realize upon their sale. Because they are not registered, restricted securities may be sold only in a privately negotiated transaction or pursuant to an exemption from registration. To the extent privately placed securities held by the Fund qualify under Rule 144A and an institutional market develops for those securities, the Fund likely will be able to dispose of the securities without registering them under the Securities Act. To the extent that institutional buyers become, for a time, uninterested in purchasing these securities, investing in Rule 144A securities could increase the level of the Fund’s illiquidity.

The Fund is classified as “non-diversified” under the 1940 Act and as a result may invest a relatively high percentage of its assets in a limited number of issuers. The Fund is only limited as to the percentage of its assets which may be invested in the securities of any one issuer by diversification requirements imposed by the Internal Revenue Code of 1986, as amended.

Please read the Fund’s prospectus for more information regarding its investment objectives.

As described more fully in the Trust’s 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 the 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 and the underlying Index, visit the Fund’s website at [www.ftportfolios.com](http://www.ftportfolios.com).

### **PURCHASES AND REDEMPTIONS IN CREATION UNIT SIZE**

NASDAQ members, BX members and PHLX members and member organizations are hereby informed that procedures for purchases and redemptions of Shares in Creation Unit Size are described in the Trust’s prospectus and Statement of Additional Information 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 the Fund of the principal risks of an investment in the Fund. These include tracking error risk (factors causing the Fund’s performance to not match the performance of the underlying index), market trading risk (for example, trading halts, trading above or below net asset value), authorized participant concentration risk, call risk, cash transactions risk, concentration risk, contingent convertible securities risk, convertible securities risk, credit risk, credit spread risk, currency exchange rate risk, cyber security risk, depositary receipts risk, extension risk, financial companies risk, floating rate and fixed to floating rate securities risk, fluctuation of new asset value risk, high yield securities risk, hybrid capital securities risk, income risk, interest rate risk, liquidity risk, management risk, market maker risk, market risk, new fund risk, non-diversification risk, non-U.S. and emerging markets securities risk, preferred securities risk, REIT investment risk, restricted securities risk, subordinated debt risk, and trading issues 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 of the Shares on BX is on a UTP basis and is subject to BX equity trading rules. Trading of the Shares on PHLX’s PSX system is on a UTP basis and is subject to PHLX rules.

### **TRADING HOURS**

The values of each 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. The Shares will trade on BX between 8:00 a.m. and 7:00 p.m. ET. The Shares will trade on PSX between 9:00 a.m. and 5:00 p.m. ET. For trading during each market’s pre-market and post-market sessions, market participants should note that additional risks may exist with respect to trading the Fund during these sessions,

when the underlying index's values, intraday indicative value, or similar value may not be disseminated or calculated.

### DISSEMINATION OF FUND DATA

The Consolidated Tape Association will disseminate real time trade and quote information for the Funds to Tape B.

Fund Name	Listing Market	Trading Symbol	IOPV Symbol	NAV Symbol
First Trust Institutional Preferred Securities and Income ETF	NYSE Arca	FPEI	FPEI.IV	FPEI.NV

### SUITABILITY

Trading in the Shares on NASDAQ will be subject to the provisions of NASDAQ Rule 2310. Trading in the Shares on BX will be subject to the provisions of BX Equity Rule 2310. Shares trading on PSX will be subject to the provisions of PHLX Rule 763. Members and member organizations 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 both the NASDAQ Conduct Rules and the BX Conduct Rules.

NASDAQ members, BX members and PHLX members and member organizations should also review NASD Notice to Members 03-71 for 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. BX will halt trading in the Shares of a Fund in accordance with BX Equity Rule 4120. PHLX will halt trading in the Shares of a Fund in accordance with PHLX Rule 3100. The grounds for a halt under these rules include a halt by the primary market because the intraday indicative value of the Fund, the value of its underlying index, or a similar value are not being disseminated as required, or a halt for other regulatory reasons. In addition, NASDAQ, BX and PHLX will also stop trading the Shares of a Fund if the primary market delists the Fund.

## **DELIVERY OF A PROSPECTUS**

NASDAQ members, BX members and PHLX members and member organizations 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 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 Fund, please refer to the 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, NASDAQ Rules 5705 and 5740, BX Equity Rules 4420 and 4421, and PHLX Rule 803 require that members and member organizations, respectively, 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 Fund, no later than the time a confirmation of the first transaction in the Shares is delivered to such purchaser. In addition, members and member organizations 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 members or member organizations 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 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."

Any NASDAQ, BX or PHLX member or member organization 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 members, BX members and PHLX members or member organizations under this rule.

Upon request of a customer, NASDAQ members, BX members and PHLX members or member organizations 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 Fund.

## **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 Fund's 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 customers must disclose all other information required by Rule 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 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 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 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 the 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 the 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.

#### **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, BX members and PHLX members and member organizations should consult the Fund's prospectus and/or the Fund's website for relevant information.**

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Inquiries regarding this Information Circular should be directed to:

- Ben Haskell, Listing Qualifications, at 301.978.8092
- NASDAQ / BX / PSX Market Sales, at 800.846.0477