



Cboe BZX Exchange, Inc. ETP Listings Compliance Guide

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The ETP Listings Compliance Guide is not intended to supersede, overwrite or otherwise change any existing requirements set forth in Chapter XIV of the [Rules of Cboe BZX Exchange, Inc.](#) In the event of a conflict between the terms in this guide and the listing rules, the listing rules will govern.

The ETP Listings Compliance Guide was created by the staff of the Listing Qualifications Department (the “Staff”) in an effort to assist issuers with the maintenance of continued listing standards and requirements associated with ETPs listed on Cboe BZX Exchange, Inc. (the “Exchange”).

The Exchange’s continued listing standards are intended to ensure the ETP’s underlying index/portfolio components are sufficiently diversified, capitalized, liquid, and regulated. Other ETP requirements are designed to promote transparency so investors have complete and equal access to information related to an Exchange-listed ETP.

Information Dissemination

Each ETP is listed under a specific product classification within Exchange Rule 14.11. The product classification dictates the type and frequency of information that the issuer must ensure is being disseminated to market participants. An issuer should contact the Staff if it is unsure of the applicable product classification an ETP is listed under.

If an issuer becomes aware that any information is not being disseminated in accordance with the applicable Exchange rule, the issuer is expected to notify the Staff immediately.

Below is a summary of the information which may be required – depending on the ETP classification – to be disseminated to market participants.

Intraday Indicative Value

The intraday indicative value (“IIV”) must be disseminated by a reporting authority at least every 15 seconds during the Exchange’s regular trading hours (generally between 9:30 a.m. and 4:00 p.m. ET). If the IIV does not change during some or all of this period, then the last official calculated IIV must remain available between these times. If the Staff becomes aware that the IIV is not disseminating appropriately, the Staff may halt trading until the issue has been resolved.

Underlying Index/Reference Asset Value

The underlying index/reference value must be calculated and published via one or more major market data vendors during the Exchange’s regular trading hours as follows:

Index/Reference Asset Type	Dissemination Frequency
Domestic Equity, Commodities, Futures or Currencies	At least once every 15 seconds
International / Global Equity	At least once every 60 seconds
Fixed Income	At least once per business day
Combination of Equity, Fixed Income	At least once every 15 seconds

If the index/reference asset value does not change during regular trading hours, then the last official calculated value must remain available throughout regular trading hours.

An issuer is required to notify the Staff if the index/reference asset is no longer calculated or available. If the value of the index/reference asset is no longer calculated or available, the Staff will consider the suspension of trading or removal from listing.

If an ETP is changing to a different index/reference asset, or the index experiences a material modification in its methodology, the issuer should notify the Staff at least 10 calendar days prior to the effective date of the change. In the event of these situations, the index/reference asset will be subject to a review by the Staff to ensure compliance with the Exchange's listing standards.

Net Asset Value

The net asset value per share ("NAV") must be made available to all market participants at the same time. If the Staff becomes aware that the NAV is not made available to all market participants at the same time, the Staff may halt trading in the applicable security until the issue has been resolved.

Issuers finding it necessary to restate a previously displayed NAV should contact the Staff prior to the published restatement. Depending on the materiality of the restatement, the Staff may request that the issuer publish a news release stating the corrected NAV. Furthermore, trading in the affected security may be subject to a temporary trading halt.

Portfolio Holdings

Certain ETP classifications require a daily portfolio holdings disclosure. The disclosed holdings must be representative of the portfolio used as the basis for the calculation of the NAV. If the Staff becomes aware that the disclosure is not made to all market participants at the same time, the Staff may halt trading until an appropriate portfolio holdings disclosure occurs.

Information Barriers

If an ETP is based on an index and the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index. Additionally, the index must be calculated by a third party who is not a broker-dealer or fund advisor. Any advisory committee, supervisory board, or similar entity that advises a reporting authority or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable index.

If an ETP is managed by an investment company and the investment advisor is affiliated with a broker-dealer, such investment advisor shall erect a "fire wall" between the investment advisor and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. Personnel who make decisions on the investment company's

portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. The reporting authority that provides the portfolio holdings must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material nonpublic information regarding the actual components of the portfolio.

Beneficial Holders

Following the initial 12-month period after listing on the Exchange, most ETP types have a requirement in which the ETP must achieve a minimum number of beneficial holders. For the applicable ETPs, the Exchange will consider the suspension of trading in or removal from listing if an ETP has fewer than 50 beneficial holders for 30 or more consecutive trading days following the initial 12-month period after listing on the Exchange.

Listing Standard Compliance

On January 1, 2018, all ETPs became subject to continuous compliance with the Exchange's listing standards. Under these continued listing rules, each ETP must meet certain applicable listing standards on an ongoing basis. The Exchange will initiate delisting proceedings where any of the listing standards are not met. An issuer which determines that an ETP is not in compliance with the listing standards shall provide the Staff with prompt notification of such noncompliance.

In January of each year, the Staff provides each issuer a Continued Listing Attestation form. Issuers indicate whether such compliance tests are being conducted and also affirm that they are not aware of any undisclosed instances of noncompliance.

For more information, the Staff has published [FAQs](#) related to these continued listing rules.

Material News Disclosures

Exchange Rule 14.6(b)

An issuer must promptly disclose, through any method compliant with Regulation Fair Disclosure ("Regulation FD"), material information that would reasonably be expected to affect the value of an ETP or influence investors' decisions. Prior to the public release, the issuer must provide notice of such disclosure to the Staff.

Material news events may include:

- The suspension of the creation or redemption process;
- The liquidation of an ETP;
- A substantive change in an underlying index's methodology;
- A change to a new underlying index;
- A change to an ETP's investment objective;
- Stock splits;
- The receipt of a Staff-issued deficiency notification; and
- A material restatement of the NAV.

Disclosure Instructions

To ensure a timely and effective release of material news, issuers are encouraged to contact the Staff by telephone prior to submitting the information through the Electronic Disclosure Submission System ("EDSS"). The EDSS is accessed by logging in to the [US Customer Portal](#).

Only authorized users, as granted by an officer of the issuer, are permitted access to the EDSS. The Staff will only discuss nonpublic information with these authorized users. To establish or alter the authorized users list, please complete an [EDSS Authorized Users form](#).

Due to the sensitivity of nonpublic information, files submitted via the EDSS are encrypted using Secure Sockets Layer (SSL). Once received, these files cannot be viewed by any associate of the Exchange, except for the Staff, until the public release has occurred.

The time in which the Staff must receive notice through the EDSS is dependent on the time of the public release. If the public release is scheduled to occur:

- *Before 7:00 a.m. ET on a day the Exchange is open* – The Staff must receive notice prior to 6:50 a.m. ET.
- *During the Exchange's market hours (generally between 7:00 a.m. and 8:00 p.m. ET)* – The Staff must receive notice at least 10 minutes prior to the public release.
- *Any other time* – The Staff must receive notice prior to 6:50 a.m. ET on the next day the Exchange is open.

For emergency situations only, the Staff may accept disclosures submitted via telephone or facsimile.

If material information is inadvertently disclosed to a select group of market participants during the Exchange's market hours, an issuer must immediately notify the Staff. The Staff will determine whether the security will be halted and if a press release is required.

Trading Halt Determination

A temporary trading halt benefits current and potential shareholders by halting all trading in any listed security until there has been an opportunity for new information to be disseminated to the public. This function decreases the possibility of some investors acting on information known only to them. A trading halt provides the public with an opportunity to evaluate the information and consider it in making investment decisions. It also alerts the marketplace to the fact that news has or will soon be released.

While it is the issuer's responsibility to determine whether a news event is material, it is the Staff's obligation to determine whether a trading halt is appropriate. Depending on the materiality of the information and the anticipated effect of the information on the price of the security, the Staff may advise the issuer that a temporary trading halt is appropriate to allow for full dissemination of the information and to maintain an orderly market. A trading halt normally lasts one half-hour but may last longer if a determination is made that the information has not been adequately disseminated.

Unusual Market Activity

Changes in market activity prior to an issuer's release of material information may indicate that the information has become known to the investing public. Changes in market activity also may occur when there is a release of material information by a source other than the issuer.

Depending on the nature of the event and the issuer's views regarding the business advisability of disclosing the information, the Staff may work with the issuer to accomplish a timely release of the information.

Responding to Requests for Information

Pursuant to Exchange Rule 14.6(a)(1), an issuer must respond to requests for information from the Staff related to:

- Unusual price movement;
- Unusual volume;
- Other events having a material impact on the trading of an ETP; and
- Compliance with Exchange rules.

An ETP may be suspended or delisted if the issuer of the ETP fails to provide such information within a reasonable period of time or if any communication to the Staff contains a material misrepresentation or omits material information.

Corporate Action Notifications

Exchange Rule 14.6(e)

Certain corporate action events will trigger the requirement for an issuer to submit a notification to the Staff. The Staff encourages issuers to consult with the Staff in advance of the formal notification.

All applicable corporate action forms may be found [here](#).

Corporate action notifications should be sent to CorporateActions@cboe.com. The due dates, which vary by the type of corporate action, are indicated below.

Depending on the materiality of the corporate action, the issuer may be required to disclose the announcement to the public through a Regulation FD compliant method. See 'Material News Disclosures' above.

Cash Distribution

The Staff asks issuers to provide a yearly schedule of anticipated cash distributions as soon as such are determined. If a schedule is not provided to the Exchange, an issuer must notify the Exchange at least ten calendar days prior to the record date. Issuers must also provide public notice, through a Regulation FD compliant method, of the dividend action at least 10 calendar days prior to the record date. Notice to the Exchange must occur no later than simultaneously with the public notice.

The distribution rate must be provided to the Exchange by 6:00 p.m. ET on the business day prior to the distribution's ex-date.

Forward Stock Split

The issuer should submit the Non-Cash Dividend/Distribution form to the Staff at least 10 calendar days prior to the record date.

Reverse Stock Split

The issuer must submit the Substitution Listing Event form to the Staff at least 15 calendar days prior to the implementation of such event.

Change in Issuer Name

An issuer shall provide the Change in Company Record form within 10 calendar days after the change; however, the Staff recommends that the submission be made not later than two business days prior to the effective date.

Change in Title of Security

An issuer shall provide the Change in Company Record form within 10 calendar days after the change; however, the Staff recommends that the submission be made not later than two business days prior to the effective date.

Change in Trading Symbol or CUSIP

An issuer must provide the Change in Company Record form at least two business days prior to the effective date.

Change in Principal Executive Offices

An issuer shall provide the Change in Company Record form as soon as practicable.

Change in Transfer Agent or Registrar

An issuer must provide written notification as soon as practicable. The issuer must submit a letter, signed by an authorized officer of the issuer, including the following: (i) complete corporate name; (ii) effective date of change; and (iii) name of new transfer agent/depositary.

Voluntary Delisting

An issuer seeking to liquidate an ETP should contact the Staff to discuss the planned timeline of the event. The issuer must provide the Staff with written notice of such determination at least ten (10) calendar days prior to any Form 25 filing with the SEC. This notice must state the material facts relating to the reasons for the delisting. Contemporaneous with notice to the Staff, the issuer must publish notice of its intent to delist, along with its reasons for delisting, via a press release and on its web site. This information must reside on the issuer's web site until the delisting has become effective. If the issuer files Form 25 with the SEC, the issuer must also provide a copy of the Form 25 to the Staff simultaneously with its SEC filing.

Liquidity Programs

Lead Market Maker Program

Exchange Rule 11.8(e)

ETPs which participate in the Exchange's [Lead Market Maker Program](#) have a designated Lead Market Maker ("LMM"). An LMM must also be a registered market making member of the Exchange.

An LMM is committed to maintain minimum performance standards in each security in which it is an LMM. The performance measurements may include (A) percent of time at the National Best Bid or Offer (“NBBO”); (B) percent of executions better than the NBBO; (C) average displayed size; and (D) average quoted spread. If an LMM does not meet the minimum performance standards for a given month, fees and credits will revert to standard equities pricing. If an LMM does not meet the minimum performance standards for three out of the past four months, the LMM is subject to forfeiture of LMM status for that ETP, at the Exchange’s discretion.

LMMs that meet the minimum performance standards receive outsized rebates for executed liquidity and reduced fees for removing liquidity in ETPs for which they are registered as the LMM. Additionally, an LMM pays no fees for executions in the closing auction in their ETPs.

LMMs may be rewarded an additional incremental rebate for adding displayed liquidity across all Tape A, B, and C securities. This incremental rebate is tiered based on the total number of ETPs assigned to the LMM for the month.

Liquidity Management Provider Program

The [Liquidity Management Provider \(“LMP”\) Program](#) is a rewards-based program that incentivizes liquidity providers to make a better market in ETPs. Incentives are based on an LMP’s quote quality in the LMP Securities, which include all Exchange-listed ETPs and certain other ETPs.

All Exchange members are eligible to enroll in the LMP Program and are not required to register as market makers on the Exchange.

To receive the LMP incentive, an enrolled Exchange member must meet certain quoting standards in at least 100 LMP Securities. Such quoting standards include time or size at the NBBO and displayed time and size near the NBBO.

Corporate Governance Requirements

Exchange Rule 14.10

An issuer with an ETP listed on the Exchange is required to meet the standards of corporate governance. These requirements are summarized below, along with the relevant rule references. ETPs registered under the Investment Company Act of 1940 may be exempt from certain provisions of Exchange Rule 14.10. An issuer should refer to the complete requirements included in this rule for further details.

Written Interpretation of an Exchange’s Listing Rules

An issuer may submit a request to the Staff for the Exchange to provide a written interpretation of a rule contained in Chapter XIV. The issuer must provide the details of the inquiry and a nonrefundable fee of \$15,000.

A response to a request for a written interpretation will be provided generally within four weeks from the date the Staff receives all information necessary to respond to the request. If an issuer requires a response by a specific date, it may state the date in its request for the written interpretation and the Exchange will attempt to respond by that date.

The Exchange does not impose fees for requests related to initial listing or requests for a financial viability exception pursuant to Exchange Rule 14.10(i)(6). An issuer that has a class of securities which has been suspended or delisted from the Exchange is eligible to request a written interpretation while the suspension or delisting decision is under review, subject to the payment of the appropriate fee. [See Rule 14.10(b)]

Noncompliance with Corporate Governance Rules

An issuer must provide the Staff with prompt notification after an executive officer becomes aware of any noncompliance by the issuer with the requirements of Exchange Rule 14.10. [See Rule 14.10(g)]

Audit Committees

In the absence of an exemption, the Exchange requires each issuer or its sponsor to maintain an audit committee that complies with Rule 10A-3 under the Securities Exchange Act of 1934. An issuer must notify the Staff immediately if the membership of its audit committee or the status of its exemption changes. This notification should be made promptly after the change is effected and should be made via e-mail to the Staff. [See Rule 14.10(c)(3)(B)]

Deficiency Process

Exchange Rule 14.12

If the Staff believes an ETP may be deficient with a continued listing requirement:

1. The Staff will send a request for information to the issuer asking if the issuer believes the ETP is compliant with the specific continued listing rule. If the issuer believes the ETP is compliant, the issuer must provide supporting data evidencing compliance. The issuer is allowed five business days to respond, unless a request for an extension has been granted by the Staff.
2. Based on the information received from the issuer, the Staff will make a final determination regarding the ETP's compliance.
3. If the Staff determines the ETP is compliant, no further action will be taken.

If the Staff makes a final determination that the ETP is deficient, the following process commences:

1. The Staff sends a deficiency notification to the issuer of the ETP. In an egregious noncompliant situation, the Staff may issue a Delisting Determination in which the Staff will not provide the ETP an opportunity to regain compliance.

2. In typical noncompliant situations, the Staff sends a deficiency notification that will allow the issuer to submit a plan for the ETP to regain compliance.
3. Regardless of the type of deficiency notification, the issuer is required to make a public announcement disclosing receipt of the notification and the rule upon which the deficiency was based within four business days from receipt of the deficiency notification.
4. If the issuer submits a compliance plan within 45 days from the date the deficiency notification was provided to the issuer, the Staff will review the plan and make a determination as to whether it will grant a compliance extension of up to 180 days from the date the deficiency notification was submitted to the issuer.
5. If the issuer does not submit a compliance plan within 45 days, as outlined above, the Staff will issue a Staff Delisting Determination which will indicate the date in which trading in the affected ETP will be suspended.

If the Staff does not possess evidence indicating the ETP regained compliance during the cure period, it will issue a request for information to the issuer. The issuer will be asked if it believes the ETP regained compliance during the cure period. If the issuer believes the ETP regained compliance, the issuer must provide supporting data evidencing compliance. The issuer is allowed five business days to respond, unless a request for an extension has been granted by the Staff.

If the issuer is not able to provide evidence that the ETP regained compliance, one of the following events will occur:

- The issuer may respond to the Staff's request for information by volunteering to delist the ETP. The Staff will not issue a Delisting Determination.
- The Staff will issue a Delisting Determination indicating the date the Exchange will suspend trading in the ETP, unless a review by the Exchange's Hearings Panel is requested within seven days of the issuance of the Delisting Determination.

Hearings and Appeals

Exchange Rule 14.12

Requesting a Hearing

An issuer that has been issued a Staff Delisting Determination or Public Reprimand Letter, which are described in Exchange Rule 14.12(c), may request review of that decision by an independent body through the hearing process.

Hearing requests must be in writing and delivered electronically to hearings@cboe.com within seven calendar days of the date of the notice. [See Rule 14.12(h)]

A timely request for a hearing will stay the suspension and delisting pending a hearing and a written decision by the Hearings Panel, unless the basis for the delisting is a filing delinquency. In the case of a filing delinquency, the request for a hearing will automatically stay the suspension and delisting only for a period of 15 calendar days from the date the request was due unless the issuer requests and the Hearings Panel grants a further stay. [See Rule 14.12(h)(1)(A)]

Hearing Mechanics

Hearings are generally scheduled to take place within 45 days of the date of request. An issuer is provided an opportunity to submit written materials and a plan of compliance before the hearing, and may elect to make an oral presentation or to have its case decided solely on the basis of the written submission.

A Hearings Panel, comprised of at least two independent professionals appointed by the Exchange Board of Directors, will review the case and render a decision. The Hearings Panel may: suspend and delist the security; find the security is in compliance with listing standards; issue a decision that serves as a Public Reprimand Letter in certain violations; or grant an exception to a listing standard for a period not to exceed 180 days from the date of the Staff Delisting Determination (In the case of a filing delinquency, the Hearings Panel may not grant an exception for a period that exceeds 360 days from the due date of the first late filing.) [See Rule 14.12(h)(1)]

Appeal to Listing Council / Call for Review

The Hearings Panel's decision may be appealed to the Listing Council, which is a committee appointed by the Exchange Board of Directors, within 15 calendar days of the written decision by the Hearings Panel. Appeals must be in writing and should be delivered electronically to appeals@cboe.com. An appeal to the Listing Council does not stay the decision of the Hearings Panel or suspension of the issuer's securities.

A Hearings Panel decision may be called for review at the discretion of the Listing Council within 45 calendar days of the written decision. A call for review does not stay the suspension and delisting of the issuer's securities, unless the Listing Council specifies that it should.

The Listing Council may affirm, modify, reverse or remand the Hearings Panel's decision. If the Listing Council issues a decision that grants an exception to a listing standard, that exception can be for a period not to exceed 360 days from the date of the Staff Delisting Determination; provided, however, that in the case of a filing delinquency, the Listing Council may not grant an exception for a period that exceeds 360 days from the due date of the first late filing. [See Rule 14.12(i)]

Review by the Exchange Board

Any decision of the Listing Council may be reviewed by the Exchange Board of Directors at the discretion of any Exchange board member. [See Rule 14.12(j)]

Delisting Mechanics

A determination to delist an issuer's securities becomes final upon exhaustion of the issuer's appeal rights and the review rights of the Listing Council and the Exchange Board of Directors. When a delisting determination becomes final, the Exchange will file a Form 25 and Notification of Delisting Determination with the SEC and provide a copy to the issuer. The Exchange will also issue a press release announcing the final delisting determination and post a notice on its website. Removal of the securities from listing on the Exchange becomes effective no sooner than 10 calendar days after the filing with the SEC. [See Rule 14.12(k)]

Discretionary Authority

Exchange Rule 14.2

The Exchange has broad discretionary authority over the initial and continued listing of securities on the Exchange in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.

The Exchange may use such discretion to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exchange, even though the securities meet all enumerated criteria for initial or continued listing on the Exchange.

As set forth in the Rules, the Exchange may determine to suspend or terminate a listing if an issuer files for bankruptcy, when an issuer's independent accountants issue a disclaimer opinion on financial statements required to be audited, or when financial statements do not contain a required certification. The Exchange may deny initial or continued listing to an issuer when an individual (e.g., an officer, director, significant shareholder or consultant to the issuer) with a history of regulatory misconduct is associated with the issuer. In addition, the Exchange may determine to suspend or terminate a listing if an issuer fails to submit requested information, or makes any communication to the Exchange containing a material misrepresentation or omits material information necessary to make a communication to the Exchange not misleading.

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