

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 21

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 026

Amendment No. (req. for Amendments *)

Filing by Cboe BZX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
--	---	--	---	---	---

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

The Exchange proposes to amend Rule 14.11.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Sarah Last Name * Tadtman

Title * Senior Counsel

E-mail * stadtman@cboe.com

Telephone * (913) 815-7203 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Cboe BZX Exchange, Inc. has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 04/15/2024

(Title *)

By Kyle Murray

VP, Associate General Counsel

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Kyle Murray Date: 2024.04.15 13:45:24 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

Add Remove View

24-026 19b-4 (Multi-Share Class ETF)

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

24-026 Exhibit 1 (Multi-Share Class E

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

24-026 Exhibit 5 (Multi-Share Class E

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Exchange Act” or the “Act”),¹ and Rule 19b-4 thereunder,² Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to amend Rule 14.11(l) to provide that the Exchange may approve a series of Exchange-Traded Fund (“ETF”) Shares for listing and/or trading on the Exchange that operates in reliance on exemptive relief to Rule 6c-11 under the Investment Company Act of 1940 (the “Investment Company Act”) that permits the trust issuing the ETF Shares to offer an exchange-traded fund class in addition to classes of shares that are not exchange-traded.

(b) Not applicable.

(c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on April 3, 2024.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Sarah Tadtman, (913) 815-7203, Cboe BZX Exchange, Inc., 433 West Van Buren Street, Chicago, Illinois 60607.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The Exchange proposes to amend Rule 14.11(l) to provide that the Exchange may approve a series of ETF Shares for listing and/or trading on the Exchange where such series operates in reliance on exemptive relief to Rule 6c-11 under the Investment Company Act that permits the trust issuing the ETF Shares to offer ETF Shares in addition to classes of shares that are not exchange-traded (“Multi-class ETF Shares”) of an open-end fund. There are numerous applications for exemptive relief for Multi-class ETF Shares currently before the Commission.³ This proposed amendment would provide for the “generic” listing and/or trading of Multi-class ETF Shares under Rule 14.11(l) on the Exchange immediately upon the Commission’s applicable order granting exemptive relief. This proposal is not intended to amend any other part of Rule 14.11(l) and the Exchange submits this proposal only to prevent any unnecessary delay in listing Multi-Class ETF Shares when and if such requests are granted by the Commission.

Background

Starting in 2000, the Commission began granting limited relief for The Vanguard Group, Inc. (“Vanguard”) to offer certain index-based open-end management investment

³ See Perpetual US Services, LLC (filed February 7, 2023); DFA Investment Dimensions Group Inc. and Dimensional Investment Group Inc. (filed July 12, 2023); F/m Investments LLC (August 22, 2023); Fidelity Hastings Street Trust and Fidelity Management & Research Company (filed October 24, 2023); Morgan Stanley Institutional Fund Trust and Morgan Stanley Investment Management Inc. (filed January 29, 2024); First Trust Series Fund and First Trust Variable Insurance Trust (filed January 24, 2024); Guinness Atkinson Funds (filed February 27, 2024); and Metropolitan West Funds, TCW ETF Trust, and TCW Funds, Inc. (filed March 20, 2024).

companies with Multi-class ETF Shares.⁴ After this relief was granted, there was limited public discourse about Multi-class ETF Shares until 2019, when the prospect of providing blanket exemptive relief to Multi-class ETF Shares was addressed in the Commission’s adoption of Rule 6c-11 under the Investment Company Act (the “ETF Rule”).⁵ The ETF Rule permits ETFs that satisfy certain conditions to operate without the expense or delay of obtaining an exemptive order. However, the ETF Rule did not provide blanket exemptive relief to allow for Multi-class ETF Shares as part of the final rule. Instead, the Commission concluded that Multi-class ETF Shares should request relief through the exemptive application process so that the Commission may assess all relevant policy considerations in the context of the facts and circumstances of particular applicants. The Exchange adopted Rule 14.11(l)⁶ shortly after the implementation of the ETF Rule and, because there were no exemptive applications before the Commission, did not propose to include any language comparable to what is being proposed herein.

⁴ See Vanguard Index Funds, Investment Company Act Release Nos. 24680 (Oct. 6, 2000) (notice) and 24789 (Dec. 12, 2000) (order). The Commission itself, as opposed to the Commission staff acting under delegated authority, considered the original Vanguard application and determined that the relief was appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In the process of granting the order, the Commission also considered and denied a hearing request on the original application, as reflected in the final Commission order. See also the Vanguard Group, Inc., Investment Company Act Release Nos. 26282 (Dec. 2, 2003) (notice) and 26317 (Dec. 30, 2003) (order); Vanguard International Equity Index Funds, Investment Company Act Release Nos. 26246 (Nov. 3, 2003) (notice) and 26281 (Dec. 1, 2003) (order); Vanguard Bond Index Funds, Investment Company Act Release Nos. 27750 (Mar. 9, 2007) (notice) and 27773 (April 2, 2007) (order) (collectively referred to as the “Vanguard Orders”).

⁵ See Securities Exchange Act Release No. 33-10695 (October 24, 2019) 84 FR 57162 (the “ETF Rule Adopting Release”).

⁶ See Securities Exchange Act No. 88566 (April 6, 2020) 85 FR 20312 (April 10, 2020) (SR-CboeBZX-2019-097) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt BZX Rule 14.11(l) Governing the Listing and Trading of Exchange-Traded Fund Shares).

As noted above, a number of applications for exemptive relief to permit the applicable fund to offer Multi-class ETF Shares (the “Applications”) have been submitted to the Commission starting in early 2023. In general, the Applications state that the ability of a fund to offer Multi-class ETF Shares, i.e., both a class of mutual fund shares (each such class, a “Mutual Fund class” and such shares “Mutual Fund Shares”) and ETF Shares, could be beneficial to the fund and to shareholders of each type of class for various reasons, including more efficient portfolio management, better secondary market trading opportunities, and cost efficiencies, among others.⁷

Proposal

⁷ Specifically, the Applicants believe that a Mutual Fund class would benefit ETF class shareholders because investor cash flows through a Mutual Fund class can be used for efficient portfolio rebalancing. To the extent that cash flows come into a fund through a Mutual Fund class, a portfolio manager may be able to deploy that cash strategically to rebalance the portfolio. Second, cash flows through a Mutual Fund class may allow for greater creation basket flexibility for creations and redemptions through the ETF class, which could promote arbitrage efficiency and smaller spreads on the trading of ETF Shares in the secondary market. With respect to existing funds, ETF classes would permit investors that prefer the ETF structure to gain access to established funds’ investment strategies. Additionally, the establishment of an ETF class as part of an existing fund could lead to cost efficiencies. Specifically, in terms of fund expenses, an ETF class could have initial and ongoing advantages for its shareholders, where shareholders of an ETF class of a fund that already has substantial assets could immediately benefit from economies of scale. Finally, the tax-free conversion of shares from the Mutual Fund class to the ETF class may accelerate the development of an ETF shareholder base. Subsequent secondary market transactions by the ETF class shareholders could generate greater trading volume, resulting in lower trading spreads and/or premiums or discounts in the market prices of the ETF Shares to the benefit of ETF shareholders. The Applicants also believe that an ETF class would benefit Mutual Fund class shareholders because in-kind transactions through the ETF class may contribute to lower portfolio transaction costs and greater tax efficiency. Additionally, the conversion feature could allow Mutual Fund shareholders to convert Mutual Fund Shares for ETF Shares without adverse consequences to the Fund by allowing Mutual Fund shareholders to convert their shares into the ETF class of the same fund rather than redeeming their Mutual Fund Shares and buying shares of another ETF. In doing so, the converting shareholder could save on transaction costs and potential tax consequences that may otherwise be incurred in redeeming their existing shares and buying separate ETF Shares. The ETF class would also represent an additional distribution channel for a fund that could lead to additional asset growth and economies of scale; greater assets under management may lead to additional cost efficiencies and an improved tax profile for the fund may also assist the competitive position of the Fund for attracting prospective shareholders. Last, the class of ETF Shares could allow certain investors to engage in more frequent trading without disrupting the fund’s portfolio.

The Exchange proposes to amend Rule 14.11(l)(4) to explicitly provide that any series of ETF Shares that is eligible to operate under exemptive relief under the Investment Company Act that permits the fund to offer a class of ETF Shares in addition to classes of shares that are not-exchange traded (i.e., Multi-class ETF Shares) may be approved by the Exchange for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b-4(e) under the Act. The Exchange also proposes to explicitly provide that the requirements of any exemptive relief applicable to Multi-class ETF Shares must be satisfied by a series of ETF Shares on an initial and continued listing basis. Last, the Exchange proposes to amend Rule 14.11(l)(4)(B)(i)(a) to provide that any series of Multi-class ETF Shares that fails to meet the requirements of the applicable exemptive relief will be subject to the suspension of trading or removal provisions of Rule 14.11(l)(4)(B)(i).

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that permitting Multi-class ETF Shares to list on the Exchange is consistent with the applicable exemptive relief and will help perfect the mechanism of a free and open market and, in general, will protect investors and the public interest in that it will permit the listing and trading of Multi-class ETF Shares, consistent with the applicable exemptive relief, and in a manner that will benefit investors. Specifically, the Exchange believes that the relief proposed in the Applications and the expected benefits of the Multi-class ETF Shares described above would be to the benefit of investors. Eliminating any unnecessary delay for Multi-class ETF Shares listing on the Exchange will simply help accrue those benefits to investors more expeditiously. Further, the Exchange is only proposing to amend its rules to allow such a series of Multi-class ETF Shares to list on the Exchange pursuant to Rule 14.11(l), a change to its rules that will only be meaningful if and when the Commission grants such relief to an Applicant. To the extent that the Commission does not grant Multi-class ETF Shares relief, the proposed change to Rule 14.11(l) will have no impact on series of ETF Shares listed on the Exchange.

The Exchange also believes that amending Rule 14.11(l) to explicitly provide that the initial and continued listing standards applicable to ETF Shares, including the

¹⁰ Id.

suspension of trading or removal standards, would be applicable to Multi-class ETF Shares operating under any applicable exemptive relief, are designed to promote transparency and clarity in the Exchange's Rules. The Exchange believes that with these changes, Rule 14.11(l)(4) would clearly allow for the listing and trading of Multi-class ETF Shares upon the Commission's order of exemptive relief.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change, by permitting the listing and trading of ETF Shares operating under Multi-class ETF Shares exemptive relief, would introduce additional competition among various ETF products to the benefit of investors.

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

Item 6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Securities and Exchange Commission (the "Commission") action on the proposed rule change specified in Section 19(b)(2) of the Act.¹¹

¹¹ 15 U.S.C. 78s(b)(2).

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

Not applicable.

Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibits 2-4. Not applicable.

Exhibit 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBZX-2024-026]

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Amend Rule 14.11(l) to Provide that the Exchange May Approve a Series of Exchange-Traded Fund (“ETF”) Shares for Listing and/or Trading on the Exchange that Operates in Reliance on Exemptive Relief to Rule 6c-11 Under the Investment Company Act of 1940 (the “Investment Company Act”) that Permits the Trust Issuing the ETF Shares to Offer an Exchange-Traded Fund Class in Addition to Classes of Shares that are not Exchange-Traded

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on [insert date], Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to amend Rule 14.11(l) to provide that the Exchange may approve a series of Exchange-Traded Fund (“ETF”) Shares for listing and/or trading on the Exchange that operates in reliance on exemptive relief to Rule 6c-11 under the Investment Company Act of 1940

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(the “Investment Company Act”) that permits the trust issuing the ETF Shares to offer an exchange-traded fund class in addition to classes of shares that are not exchange-traded.

The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 14.11(l) to provide that the Exchange may approve a series of ETF Shares for listing and/or trading on the Exchange where such series operates in reliance on exemptive relief to Rule 6c-11 under the Investment Company Act that permits the trust issuing the ETF Shares to offer ETF Shares in addition to classes of shares that are not exchange-traded (“Multi-class ETF Shares”) of an open-end fund. There are numerous applications for exemptive relief for Multi-class ETF Shares currently before the Commission.³ This proposed amendment would provide

³ See Perpetual US Services, LLC (filed February 7, 2023); DFA Investment Dimensions Group Inc. and Dimensional Investment Group Inc. (filed July 12, 2023); F/m Investments LLC (August

for the “generic” listing and/or trading of Multi-class ETF Shares under Rule 14.11(l) on the Exchange immediately upon the Commission’s applicable order granting exemptive relief. This proposal is not intended to amend any other part of Rule 14.11(l) and the Exchange submits this proposal only to prevent any unnecessary delay in listing Multi-Class ETF Shares when and if such requests are granted by the Commission.

Background

Starting in 2000, the Commission began granting limited relief for The Vanguard Group, Inc. (“Vanguard”) to offer certain index-based open-end management investment companies with Multi-class ETF Shares.⁴ After this relief was granted, there was limited public discourse about Multi-class ETF Shares until 2019, when the prospect of providing blanket exemptive relief to Multi-class ETF Shares was addressed in the Commission’s adoption of Rule 6c-11 under the Investment Company Act (the “ETF Rule”).⁵ The ETF Rule permits ETFs that satisfy certain conditions to operate without the expense or delay of obtaining an exemptive order. However, the ETF Rule did not

22, 2023); Fidelity Hastings Street Trust and Fidelity Management & Research Company (filed October 24, 2023); Morgan Stanley Institutional Fund Trust and Morgan Stanley Investment Management Inc. (filed January 29, 2024); First Trust Series Fund and First Trust Variable Insurance Trust (filed January 24, 2024); Guinness Atkinson Funds (filed February 27, 2024); and Metropolitan West Funds, TCW ETF Trust, and TCW Funds, Inc. (filed March 20, 2024).

⁴ See Vanguard Index Funds, Investment Company Act Release Nos. 24680 (Oct. 6, 2000) (notice) and 24789 (Dec. 12, 2000) (order). The Commission itself, as opposed to the Commission staff acting under delegated authority, considered the original Vanguard application and determined that the relief was appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In the process of granting the order, the Commission also considered and denied a hearing request on the original application, as reflected in the final Commission order. See also the Vanguard Group, Inc., Investment Company Act Release Nos. 26282 (Dec. 2, 2003) (notice) and 26317 (Dec. 30, 2003) (order); Vanguard International Equity Index Funds, Investment Company Act Release Nos. 26246 (Nov. 3, 2003) (notice) and 26281 (Dec. 1, 2003) (order); Vanguard Bond Index Funds, Investment Company Act Release Nos. 27750 (Mar. 9, 2007) (notice) and 27773 (April 2, 2007) (order) (collectively referred to as the “Vanguard Orders”).

⁵ See Securities Exchange Act Release No. 33-10695 (October 24, 2019) 84 FR 57162 (the “ETF Rule Adopting Release”).

provide blanket exemptive relief to allow for Multi-class ETF Shares as part of the final rule. Instead, the Commission concluded that Multi-class ETF Shares should request relief through the exemptive application process so that the Commission may assess all relevant policy considerations in the context of the facts and circumstances of particular applicants. The Exchange adopted Rule 14.11(l)⁶ shortly after the implementation of the ETF Rule and, because there were no exemptive applications before the Commission, did not propose to include any language comparable to what is being proposed herein.

As noted above, a number of applications for exemptive relief to permit the applicable fund to offer Multi-class ETF Shares (the “Applications”) have been submitted to the Commission starting in early 2023. In general, the Applications state that the ability of a fund to offer Multi-class ETF Shares, i.e., both a class of mutual fund shares (each such class, a “Mutual Fund class” and such shares “Mutual Fund Shares”) and ETF Shares, could be beneficial to the fund and to shareholders of each type of class for various reasons, including more efficient portfolio management, better secondary market trading opportunities, and cost efficiencies, among others.⁷

⁶ See Securities Exchange Act No. 88566 (April 6, 2020) 85 FR 20312 (April 10, 2020) (SR-CboeBZX-2019-097) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt BZX Rule 14.11(l) Governing the Listing and Trading of Exchange-Traded Fund Shares).

⁷ Specifically, the Applicants believe that a Mutual Fund class would benefit ETF class shareholders because investor cash flows through a Mutual Fund class can be used for efficient portfolio rebalancing. To the extent that cash flows come into a fund through a Mutual Fund class, a portfolio manager may be able to deploy that cash strategically to rebalance the portfolio. Second, cash flows through a Mutual Fund class may allow for greater creation basket flexibility for creations and redemptions through the ETF class, which could promote arbitrage efficiency and smaller spreads on the trading of ETF Shares in the secondary market. With respect to existing funds, ETF classes would permit investors that prefer the ETF structure to gain access to established funds’ investment strategies. Additionally, the establishment of an ETF class as part of an existing fund could lead to cost efficiencies. Specifically, in terms of fund expenses, an ETF class could have initial and ongoing advantages for its shareholders, where shareholders of an ETF class of a fund that already has substantial assets could immediately benefit from economies of scale. Finally, the tax-free conversion of shares from the Mutual Fund class to the ETF class may accelerate the development of an ETF shareholder base. Subsequent secondary market transactions

Proposal

The Exchange proposes to amend Rule 14.11(l)(4) to explicitly provide that any series of ETF Shares that is eligible to operate under exemptive relief under the Investment Company Act that permits the fund to offer a class of ETF Shares in addition to classes of shares that are not-exchange traded (i.e., Multi-class ETF Shares) may be approved by the Exchange for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b-4(e) under the Act. The Exchange also proposes to explicitly provide that the requirements of any exemptive relief applicable to Multi-class ETF Shares must be satisfied by a series of ETF Shares on an initial and continued listing basis. Last, the Exchange proposes to amend Rule 14.11(l)(4)(B)(i)(a) to provide that any series of Multi-class ETF Shares that fails to meet the requirements of the applicable exemptive relief will be subject to the suspension of trading or removal provisions of Rule 14.11(l)(4)(B)(i).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the

by the ETF class shareholders could generate greater trading volume, resulting in lower trading spreads and/or premiums or discounts in the market prices of the ETF Shares to the benefit of ETF shareholders. The Applicants also believe that an ETF class would benefit Mutual Fund class shareholders because in-kind transactions through the ETF class may contribute to lower portfolio transaction costs and greater tax efficiency. Additionally, the conversion feature could allow Mutual Fund shareholders to convert Mutual Fund Shares for ETF Shares without adverse consequences to the Fund by allowing Mutual Fund shareholders to convert their shares into the ETF class of the same fund rather than redeeming their Mutual Fund Shares and buying shares of another ETF. In doing so, the converting shareholder could save on transaction costs and potential tax consequences that may otherwise be incurred in redeeming their existing shares and buying separate ETF Shares. The ETF class would also represent an additional distribution channel for a fund that could lead to additional asset growth and economies of scale; greater assets under management may lead to additional cost efficiencies and an improved tax profile for the fund may also assist the competitive position of the Fund for attracting prospective shareholders. Last, the class of ETF Shares could allow certain investors to engage in more frequent trading without disrupting the fund's portfolio.

requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that permitting Multi-class ETF Shares to list on the Exchange is consistent with the applicable exemptive relief and will help perfect the mechanism of a free and open market and, in general, will protect investors and the public interest in that it will permit the listing and trading of Multi-class ETF Shares, consistent with the applicable exemptive relief, and in a manner that will benefit investors. Specifically, the Exchange believes that the relief proposed in the Applications and the expected benefits of the Multi-class ETF Shares described above would be to the benefit of investors. Eliminating any unnecessary delay for Multi-class ETF Shares listing on the Exchange will simply help accrue those benefits to investors more expeditiously. Further, the Exchange is only proposing to amend its rules to allow such a

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ Id.

series of Multi-class ETF Shares to list on the Exchange pursuant to Rule 14.11(l), a change to its rules that will only be meaningful if and when the Commission grants such relief to an Applicant. To the extent that the Commission does not grant Multi-class ETF Shares relief, the proposed change to Rule 14.11(l) will have no impact on series of ETF Shares listed on the Exchange.

The Exchange also believes that amending Rule 14.11(l) to explicitly provide that the initial and continued listing standards applicable to ETF Shares, including the suspension of trading or removal standards, would be applicable to Multi-class ETF Shares operating under any applicable exemptive relief, are designed to promote transparency and clarity in the Exchange's Rules. The Exchange believes that with these changes, Rule 14.11(l)(4) would clearly allow for the listing and trading of Multi-class ETF Shares upon the Commission's order of exemptive relief.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change, by permitting the listing and trading of ETF Shares operating under Multi-class ETF Shares exemptive relief, would introduce additional competition among various ETF products to the benefit of investors.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2024-026 on the subject line.

Paper Comments:

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

All submissions should refer to file number SR-CboeBZX-2024-026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The

Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2024-026 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

¹¹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

* * * * *

Rules of Cboe BZX Exchange, Inc.

* * * * *

Rule 14.11. Other Securities

(a) – (k) No change.

(l) Exchange-Traded Fund Shares

(1)-(2) No change.

(3) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(A)-(C) No change.

(4) Initial and Continued Listing. The Exchange may approve a series of ETF Shares for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b-4(e) under the Act, provided such series of ETF Shares is eligible to operate in reliance on Rule 6c-11 under the Investment Company Act of 1940, or any exemptive relief thereunder that permits the fund to offer a class of ETF Shares in addition to classes of shares that are not exchange-traded (“Multi-class ETF Shares”), and must satisfy the requirements of this Rule 14.11(l) on an initial and continued listing basis.

(A) The requirements of Rule 6c-11, including the requirements of any exemptive relief applicable to Multi-class ETF Shares, must be satisfied by a series of ETF Shares on an initial and continued listing basis. Such securities must also satisfy the following criteria on an initial and, except for paragraph (i) below, continued, listing basis:

(i)-(iii) No change.

(B) No change.

(i) Suspension of trading or removal. The Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of ETF Shares under any of the following circumstances:

(a) if the Exchange becomes aware that the issuer of the ETF Shares is no longer eligible to operate in reliance on Rule 6c-

11 under the Investment Company Act of 1940 or any exemptive relief applicable to Multi-class ETF Shares;

(b)-(d) No change.

(ii) No change.

(5)-(6) No change.

(m) No change.

* * * * *