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Page 1 of * 62		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No. * SR 2025 - * 076 Amendment No. (req. for Amendments *) 2	
Filing by Cboe BZX Exchange, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934					
Initial * <input type="checkbox"/>		Amendment * <input checked="" 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) * <input type="checkbox"/>			Section 806(e)(2) * <input type="checkbox"/>		
			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>			Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
<b>Description</b> Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div></div>					
<b>Contact Information</b> 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 * Assistant General Counsel E-mail * stadtman@cboe.com Telephone * (913) 815-7203 Fax <input type="text"/>					
<b>Signature</b> 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 11/19/2025 (Title *) By Matthew Iwamaye VP, Associate General Counsel (Name *) <div>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.</div> <div>Matthew Iwamaye Date: 2025.11.19 14:53:21 -06'00'</div>					

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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25-076 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 \***

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25-076 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 \***

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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**

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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.

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Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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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.

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Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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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**

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25-076 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**

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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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to adopt Rule 14.11(n) to permit the generic listing and trading of Class Exchange-Traded Fund Shares. The Exchange is also proposing to make conforming changes to the Exchange’s definitions, corporate governance requirements under Rule 14.10(e), and other provisions of Rule 14.11 in order to accommodate the proposed listing of Class ETF Shares.

(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 June 2, 2025.

(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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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

This Amendment No. 2 to SR-CboeBZX-2025-076 amends and replaces in its entirety the proposal as originally submitted on June 2, 2025, and as amended by Amendment No. 1 on August 26, 2025. The Exchange submits this Amendment No. 2 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to adopt new Rule 14.11(n) for the purpose of permitting the generic listing and trading, or trading pursuant to unlisted trading privileges, of Class Exchange-Traded Fund (“ETF”) Shares.<sup>3</sup> The Exchange is also proposing to make conforming changes to the Exchange’s definitions, corporate governance requirements under Rule 14.10(e), and other provisions of Rule 14.11 in order to accommodate the proposed listing of Class ETF Shares.

Consistent with ETF Shares listed under the generic listing standards in Rule 14.11(l), Class ETF Shares would be permitted to be listed and traded on the Exchange without prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act.<sup>4</sup>

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<sup>3</sup> The Exchange notes that it had previously submitted a version of this filing on April 15, 2024. See Securities Exchange Act Release No. 34-100034 (May 1, 2024) 89 FR 35255 (SR-CboeBZX-2024-026). On November 8, 2024, that filing was withdrawn and the Exchange submitted another filing. See Securities Exchange Act Release No. 101655 (November 25, 2024) 89 FR 92989 (SR-CboeBZX-2024-112). On June 2, 2025, the Exchange withdrew that filing and submitted this proposal.

<sup>4</sup> Rule 19b-4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO’s trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. As contemplated by this Rule 14.11(n), the Exchange proposes new Rule 14.11(n) to establish generic listing standards for Class ETF Shares (as defined herein) of the ETF Class (as defined

### *Background*

There are numerous applications for exemptive relief for Class ETF Shares currently before the Commission<sup>5</sup> that request exemptive relief similar to that previously granted to other funds.<sup>6</sup> This proposal would provide for the “generic” listing and/or trading of Class ETF Shares under proposed Rule 14.11(n) on the Exchange.

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 Class ETF Shares.<sup>7</sup> After this relief was granted, there was limited public discourse about Class ETF Shares until 2019, when the prospect of providing blanket exemptive relief to Class ETF Shares was addressed in the Commission’s

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herein) that would be required to operate as an ETF pursuant to the Multi-Class Fund Exemptive Relief (as defined herein) and be in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act of 1940 (the “Investment Company Act”), except as noted in the Multi-Class Fund Exemptive Relief. Class ETF Shares listed under proposed Rule 14.11(n) would therefore not need a separate proposed rule change pursuant to Rule 19b-4 before it can be listed and traded on the Exchange.

<sup>5</sup> See e.g., DFA Investment Dimensions Group Inc. and Dimensional Investment Group Inc., (amendment filed March 31, 2025); F/m Investments LLC (amendment filed April 10, 2025); Fidelity Hastings Street Trust and Fidelity Management & Research Company (amendment filed April 11, 2025); Morgan Stanley Institutional Fund Trust and Morgan Stanley Investment Management Inc. (amendment filed April 11, 2025); BlackRock Funds (amendment filed April 15, 2025); Guinness Atkinson Funds (amendment filed April 17, 2025); Metropolitan West Funds, TCW ETF Trust, and TCW Funds, Inc. (amendment filed April 22, 2025); and Northern Funds and Northern Trust Investments, Inc. (amendment filed May 2, 2025).

<sup>6</sup> Infra note 7.

<sup>7</sup> 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 Investment Company 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”).

adoption of Rule 6c-11 (the “ETF Rule”)<sup>8</sup> under the Investment Company Act of 1940 (the “Investment Company Act”). 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 Class ETF Shares as part of the final rule. Instead, the Commission concluded that 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)<sup>9</sup> shortly after the implementation of the ETF Rule and, because there were no exemptive applications before the Commission, the Exchange 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 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 Class ETF Shares, i.e., a fund offering both a class of mutual fund shares and a class of shares that are exchange traded, 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.<sup>10</sup> The Commission has granted by order specific exemptive

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<sup>8</sup> See Securities Exchange Act Release No. 33-10695 (September 25, 2019) 84 FR 57162 (October 24, 2019) (the “ETF Rule Adopting Release”).

<sup>9</sup> 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).

<sup>10</sup> Supra note 5.

relief (“Multi-Class Fund Exemptive Relief”) under the Investment Company Act on November 17, 2025, that permits, subject to certain conditions and requirements, a Multi-Class Fund (as defined below) to issue Class ETF Shares (as defined below) and one or more classes of shares that are not exchange-traded, among other things.<sup>11</sup>

*Proposal*

Proposed Rule 14.11(n)(1) provides that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Class ETF Shares that meet the criteria of this Rule.<sup>12</sup>

Proposed Rule 14.11(n)(2) provides that the proposed rule would be applicable only to Class ETF Shares. Except to the extent inconsistent with this Rule 14.11(n), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. Class ETF Shares are included within the definition of “security” or “securities” as such terms are used in the Rules of the Exchange.

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<sup>11</sup> See Investment Company Act Release No. 35786 (November 17, 2025) (In the Matter of DFA Investment Dimensions Group Inc., Dimensional Investment Group Inc., Dimensional ETF Trust and Dimensional Fund Advisors LP) (File No. 812-15484).

<sup>12</sup> To the extent that Class ETF Shares do not satisfy one or more of the criteria in proposed Rule 14.11(n), the Exchange may file a separate proposal under Section 19(b) of the Act in order to list such securities on the Exchange. Any of the statements or representations in that proposal regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in any filing to list such Class ETF Shares shall constitute continued listing requirements for the Class ETF Shares. Further, in the event that Class ETF Shares become listed under proposed Rule 14.11(n) and subsequently can no longer satisfy the requirements of proposed Rule 14.11(n), such Class ETF Shares may be listed as a series of Index Fund Shares under Rule 14.11(c) or Managed Fund Shares under Rule 14.11(i), as applicable, as long as the Class ETF Shares meets all listing requirements applicable under the alternate listing rule. If the Class ETF Shares do change listing standards, the Exchange would have to comply with all of the requirements of Rule 19b-4(e) with respect to such Class ETF Shares.

Proposed Rule 14.11(n)(2) further provides that: (A) transactions in Class ETF Shares will occur throughout the Exchange’s trading hours; and (B) the Exchange will implement and maintain written surveillance procedures for Class ETF Shares.

Proposed Rule 14.11(n)(3)(A) provides that the term “Class ETF Shares” shall mean shares of the ETF Class<sup>13</sup> issued by a Multi-Class Fund.<sup>14</sup>

Proposed Rule 14.11(n)(3)(B) provides that the term “ETF Class” means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act (“Multi-Class Fund Exemptive Relief”), and (ii) is in compliance with the requirements of proposed Rules 14.11(n)(4)(b) and 14.11(n)(4)(B)(i)(a)(2), discussed below, on an initial and continued listing basis.

Proposed Rule 14.11(n)(3)(C) provides that the term “Multi-Class Fund” means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange-traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief.

Proposed Rule 14.11(n)(3)(D) provides that the term “Reporting Authority” in respect of a particular Multi-Class Fund means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists Class ETF Shares (if the Exchange is trading such securities pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such Multi-

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<sup>13</sup> See proposed Rule 14.11(n)(3)(B).

<sup>14</sup> See proposed Rule 14.11(n)(3)(C).



Class Fund, including, but not limited to, the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares, net asset value, index or portfolio value, the current value of the portfolio of securities required to be deposited in connection with the issuance of Class ETF Shares, or other information relating to the issuance, redemption or trading of Class ETF Shares. A Multi-Class Fund may have more than one Reporting Authority, each having different functions.

Proposed Rule 14.11(n)(4) provides that the Exchange may approve Class ETF Shares of a Multi-Class Fund for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b-4(e) under the Act, provided that: (a) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class is in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule 14.11(n), as applicable, on an initial and continued listing basis.

Proposed Rule 14.11(n)(4)(A) provides that the requirements of paragraph (4) of this Rule must be satisfied by the Multi-Class Fund issuing the Class ETF Shares on an initial and continued listing basis. The Multi-Class Fund with respect to such Class ETF Shares must also satisfy the following criteria on an initial and, except for sub-paragraph (i) below, continued listing basis. Further, proposed Rule 14.11(n)(4)(A) provides that: (i) for each Multi-Class Fund, the Exchange will establish a minimum number of Class ETF Shares required to be outstanding at the time of commencement of trading on the

Exchange; (ii) if an index underlying a Multi-Class Fund is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a “fire wall” around the personnel who have access to information concerning changes and adjustments to the index, and the index shall be calculated by a third party who is not a broker-dealer or fund adviser. If the investment adviser to an actively managed Multi-Class Fund is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Multi-Class Fund’s portfolio; and (iii) any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the composition, methodology, and related matters of an index underlying a Multi-Class Fund, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index. For actively managed Multi-Class Funds, personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable portfolio.

Proposed Rule 14.11(n)(4)(B) provides that Class ETF Shares of each Multi-Class Fund will be listed and traded on the Exchange subject to application of the continued listing criteria therein. Proposed Rule 14.11(n)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, Class ETF Shares under any of the following circumstances: (a) if the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to,

or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (b) if any of the other listing requirements set forth in this Rule are not continuously maintained; (c) if, following the initial twelve-month period after commencement of trading on the Exchange of the Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(n)(4)(B)(ii) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing.

Proposed Rule 14.11(n)(5) provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Multi-Class Fund in connection with the issuance of Class ETF Shares; the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares; net asset value; or other information relating to the purchase, redemption, or trading of Class ETF Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood;

extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

The Exchange is also proposing to make corresponding amendments to include Class ETF Shares in other Exchange rules, which are intended to align the treatment of the proposed products with how other open-end management investment company shares (e.g., ETF Shares, Index Fund Shares, and Managed Fund Shares) are treated under the Exchange's rules. First, the Exchange is proposing to add Class ETF Shares to the definition of UTP Security in Rule 1.5(ee) and to amend Rule 14.11(c)(3)(A)(i)(a) in order to include Class ETF Shares in the definition of Derivative Securities Products. The Exchange believes this is appropriate to ensure that Class ETF Shares are treated consistently with other open-end management investment company shares listed on the Exchange such as ETF Shares, Index Funds Shares, and Managed Fund Shares.

Second, the Exchange proposes to amend Rule 14.10(e)(1)(E)(ii) to exempt Class ETF Shares from the requirements of Rule 14.10(i)(1) in connection with the acquisition of the stock or assets of an affiliated registered investment company in a transaction that complies with Rule 17a-8 under the Investment Company Act and does not otherwise require shareholder approval under the Investment Company Act and the rules thereunder or any other Exchange rule.<sup>15</sup>

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<sup>15</sup> Rule 14.10(1)(F) provides that issuers whose only securities listed on the Exchange are non-voting preferred securities, debt securities or Derivative Securities, are exempt from the requirements relating to Independent Directors (as set forth in Rule 14.10(c)(2)), Compensation Committees (as set forth in Rule 14.10(c)(4)), Director Nominations (as set forth in Rule 14.10(c)(5)), Code of Conduct (as set forth in Rule 14.10(d)), and Meetings of Shareholders (as set forth in Rule

Third, the Exchange proposes to amend the definition of “Derivative Securities” in Rule 14.10(e)(1)(F)(ii) to add Class ETF Shares so the exclusions applicable to Derivative Securities in Rule 14.10 will also apply to Class ETF Shares. The Exchange believes this is appropriate to ensure that Class ETF Shares are treated consistently with other open-end management investment company shares listed on the Exchange such as ETF Shares, Index Fund Shares, and Managed Fund Shares. In addition, these issuers are exempt from the requirements relating to Audit Committees (as set forth in Rule 14.10(c)(3)), except for the applicable requirements of SEC Rule 10A-3.<sup>16</sup>

#### *Discussion*

Proposed Rule 14.11(n) is based on Rule 14.11(l) related to the listing and trading of ETF Shares on the Exchange, which are issued under the Investment Company Act and qualify as ETF Shares under Rule 6c-11. ETF Shares are similar to Class ETF Shares because the ETF Class is required to operate as an ETF pursuant to the Multi-Class Fund Exemptive Relief and be in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act (except as noted in the Multi-Class Fund Exemptive Relief”).<sup>17</sup> The proposed Class ETF Shares generic listing rules would apply only to the class of shares that are exchange-traded. Because the ETF Class would be required to comply, among other things, with the conditions and requirements of Rule 6c-11 under the Investment Company Act, similar to ETF Shares under Rule 14.11(l), the

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14.10(f)). In addition, these issuers are exempt from the requirements relating to Audit Committees (as set forth in Rule 14.10(c)(3)), except for the applicable requirements of SEC Rule 10A-3. Notwithstanding, if the issuer also lists its common stock or voting preferred stock, or their equivalent on the Exchange it will be subject to all the requirements of Exchange Rule 14.10.

<sup>16</sup> Id.

<sup>17</sup> See supra note 11.

Exchange believes that using Rule 14.11(l) as the basis for proposed Rule 14.11(n) is appropriate.

The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because the Exchange will perform ongoing surveillance of Class ETF Shares listed on the Exchange in order to ensure that (a) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with, the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of Rule 14.11(n), as applicable, on an initial and continued basis. The Exchange believes that the manipulation concerns are mitigated by a combination of the Exchange's surveillance procedures, the Exchange's ability to halt trading under proposed Rule 14.11(n)(4)(B)(ii), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Rule 14.11(n)(4)(B)(i). The Exchange will halt trading in the Class ETF Shares under the conditions specified in Rule 11.18, "Trading Halts Due to Extraordinary Market Volatility." The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that have come from Rule 6c-11, specifically the additional flexibility provided through the use of custom baskets for creations and redemptions and the additional information made available to the public through the

additional daily website disclosure obligations applicable under Rule 6c-11.<sup>18</sup> The Exchange also notes that there are firewall and other information barrier restrictions in place in the proposed rule text.<sup>19</sup> The Exchange believes that the combination of these factors will act to keep Class ETF Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of Class ETF Shares on the Exchange. The Exchange will monitor for compliance to ensure that (i) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is in otherwise compliance with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of 14.11(n), as applicable, on an initial and continuing basis. Specifically, the Exchange will review the website of Class ETF Shares listed on the Exchange in order to ensure that the requirements of Rule 6c-11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 14.11(a) would require an issuer of Class ETF Shares to notify the Exchange of any

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<sup>18</sup> The Exchange notes that the Commission came to a similar conclusion in several places in the ETF Rule Adopting Release. See ETF Rule Adopting Release at 15-18; 60-61; 69-70; 78-79; 82-84; and 95-96.

<sup>19</sup> See proposed Rule 14.11(n)(4)(A)(ii).

failure to comply with the requirements of proposed Rule 14.11(n), the Multi-Class Fund Exemptive Relief, or Rule 6c-11 under the Investment Company Act.

The Exchange may suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.<sup>20</sup> The Exchange also notes that Rule 14.11(a) requires any issuer to provide the Exchange with prompt notification after it becomes aware that (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or otherwise no longer complies with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class is no longer compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, or (iii) the ETF Class or the Multi-Class Fund no

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<sup>20</sup> Specifically, proposed Rule 14.11(n)(4)(B) provides that Class ETF Shares will be listed and traded on the Exchange subject to application of proposed Rule 14.11(n)(4)(B)(i) and (ii). Proposed Rule 14.11(n)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for Class ETF Shares under any of the following circumstances: (i) if the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (ii) if any of the other listing requirements set forth in this Rule are not continuously maintained; (iii) if, following the initial twelve month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or (iv) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(n)(4)(B)(ii) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing.



longer satisfies the requirements of Rule 14.11(n), as applicable, on an initial and continuing basis.<sup>21</sup>

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the Class ETF Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to ETF Shares, Index Fund Shares and Managed Fund Shares among other product types, to monitor trading in Class ETF Shares. The Exchange or the Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (“ISG”) or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Class ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Finally, the issuer of Class ETF Shares will be required to comply with Rule 10A-3 under the Act for the initial and continued listing of Class ETF Shares, as provided under Rule 14.10(e)(1)(E).<sup>22</sup>

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<sup>21</sup> The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to Rule 14.11(a) would itself be considered non-compliance with the requirements of proposed Rule 14.11(n) and would subject the Class ETF Shares to potential trading halts and the delisting process under Rule 14.12.

<sup>22</sup> See *supra* note 15. The Exchange notes that these proposed changes in Rule 14.10(e)(1)(E) would subject Class ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

The Exchange notes that it may consider all relevant factors in exercising its discretion to halt or suspend trading in Class ETF Shares. Trading may be halted if the circuit breaker parameters in Rule 11.18 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which certain information about the Class ETF Shares that is required to be disclosed under Rule 6c-11 of the Investment Company Act is not being made available, including specifically where the Exchange becomes aware that the net asset value or the daily portfolio disclosure with respect to Class ETF Shares is not disseminated to all market participants at the same time, it will halt trading in such securities until such time as the net asset value or the daily portfolio disclosure is available to all market participants;<sup>23</sup> (2) if an interruption to the dissemination to the value of the index or reference asset on which Class ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. The Exchange deems Class ETF Shares to be equity securities and therefore they would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.<sup>24</sup>

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<sup>23</sup> The Exchange will obtain a representation from the issuer of Class ETF Shares that the net asset value per share will be calculated daily and made available to all market participants at the same time, and the requirements pertaining to the Multi-Class Fund Exemptive Relief and Rule 6c-11 under the Investment Company Act in proposed Rule 14.11(n) will be satisfied.

<sup>24</sup> With respect to trading in Class ETF Shares, the Exchange represents that all of the BZX Member obligations related to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange Rules and federal securities laws, and the Exchange will

(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.<sup>25</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>26</sup> 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)<sup>27</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that proposed Rule 14.11(n) is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading Class ETF Shares on the Exchange provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 14.11(n)(4) sets forth initial and continued listing criteria applicable to Class ETF

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continue to monitor its Members for compliance with such requirements, which are not changing as a result of the Multi-Class Fund Exemptive Relief order issued under the Investment Company Act.

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> Id.

Shares, specifically providing that the Exchange may approve Class 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 that: (i) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (ii) the ETF Class is in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule 14.11(n), as applicable, on an initial and continued listing basis.<sup>28</sup> The Exchange will comply with all the requirements of Rule 19b-4(e) to specifically note that such Class ETF Shares are being listed on the Exchange pursuant to Rule 14.11(n).

Proposed Rule 14.11(n)(4)(B) provides that Class ETF Shares of each Multi-Class Fund will be listed and traded on the Exchange subject to application of proposed Rules 14.11(n)(4)(B)(i) and (ii). Proposed Rule 14.11(n)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, Class ETF Shares under any of the following circumstances: (a) if

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<sup>28</sup> The Exchange notes that eligibility to operate in reliance on Rule 6c-11 or any applicable exemptive relief under the Investment Company Act does not necessarily mean that an investment company would be listed on the Exchange pursuant to proposed Rule 14.11(n). To this point, an investment company that operates in reliance of exemptive relief providing for Class ETF Shares could alternatively be listed as a series of Index Fund Shares or Managed Fund Shares pursuant to Rule 14.11(c) or (i), respectively, and would be subject to all requirements under each of those rules. Further to this point, in the event that Class ETF Shares listed on the Exchange preferred to be listed as a series of Index Fund Shares or Managed Fund Shares (as applicable), nothing would preclude such security from changing to be listed as a series of Index Fund Shares or Managed Fund Shares (as applicable), as long as the security met each of the initial and continued listing obligations under the applicable rules.

the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (b) if any of the other listing requirements set forth in this Rule 14.11(n) are not continuously maintained; (c) if, following the initial twelve month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. The Exchange notes that it may become aware that the issuer is no longer compliant with Rule 6c-11 or any applicable exemptive relief thereunder, as described in proposed Rule 14.11(n)(4)(B)(i)(a), as a result of either the Exchange identifying non-compliance through its own monitoring process or through notification by the issuer.

Proposed Rule 14.11(n)(4)(B)(ii) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing. The Exchange also notes that it will obtain a representation from the issuer of Class ETF Shares stating that the requirements of Rule 6c-11 and the applicable exemptive relief under the Investment Company Act will be continuously satisfied and that the issuer will notify the Exchange of any failure to do so.

The Exchange further believes that proposed Rule 14.11(n) is designed to prevent fraudulent and manipulative acts and practices because of the robust surveillances in place on the Exchange as required under proposed Rule 14.11(n)(2)(C) along with the similarities of proposed Rule 14.11(n) to the rules related to other securities that are already listed and traded on the Exchange and which would qualify as Class ETF Shares. ETF Shares are identical to Class ETF Shares except that Class ETF Shares have received exemptive relief to operate an exchange-traded fund class in addition to classes of shares that are not exchange-traded. As such, the Exchange believes because the ETF Class would be required to comply, among other things, with the conditions and requirements of Rule 6c-11 under the Investment Company Act, similar to ETF Shares under Rule 14.11(l), the Exchange believes that using Rule 14.11(l) as the basis for proposed Rule 14.11(n) is appropriate.

The Exchange believes that the proposal is consistent with Section 6(b)(1) of the Act in that,<sup>29</sup> in addition to being designed to prevent fraudulent and manipulative acts and practices, the Exchange has the capacity to enforce proposed Rule 14.11(n) by performing ongoing surveillance of Class ETF Shares listed on the Exchange in order to ensure that (a) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of Rule

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<sup>29</sup> 15 U.S.C. 78f(b)(1).

14.11(n), as applicable, on an initial and continued basis. The Exchange believes that the manipulation concerns that such standards are intended to address are mitigated by a combination of the Exchange's surveillance procedures, the Exchange's ability to halt trading under the proposed Rule 14.11(n)(4)(B)(ii), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Rule 14.11(n)(4)(B)(i). The Exchange will also halt trading in Class ETF Shares under the conditions specified in Rule 11.18, "Trading Halts Due to Extraordinary Market Volatility." The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that have come from compliance with Rule 6c-11, specifically the additional flexibility provided through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional daily website disclosure obligations applicable under Rule 6c-11.<sup>30</sup> The Exchange believes that the combination of these factors will act to keep Class ETF Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of Class ETF Shares on the Exchange. The Exchange will monitor for compliance with Rule 6c-11 and any applicable exemptive relief in order to ensure that the continued listing standards are being met. Specifically, the Exchange plans to review the website of Class ETF Shares in order to ensure that the requirements of Rule 6c-11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances

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<sup>30</sup> The Exchange notes that the Commission came to a similar conclusion in several places in the ETF Rule Adopting Release. See ETF Rule Adopting Release at 15-18; 60-61; 69-70; 78-79; 82-84; and 95-96.

that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 14.11(a) would require an issuer of Class ETF Shares to notify the Exchange of any failure to comply with Rule 6c-11 or the requirements of the Multi-Class Fund Exemptive Relief under the Investment Company Act.

To the extent that any of the requirements under Rule 6c-11 or Multi-Class Fund Exemptive Relief under the Investment Company Act are not being met, the Exchange may halt trading Class ETF Shares as provided in proposed Rule 14.11(n)(4)(B)(ii).

Further, the Exchange may also suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable. As discussed above, the Exchange also notes that Rule 14.11(a) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed Rule 14.11(n), which would include any failure of the issuer to comply with Rule 6c-11 or the Multi-Class Fund Exemptive Relief under the Investment Company Act.

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the Class ETF Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Index Fund Shares, Managed Fund Shares and ETF Shares, among other product types, to monitor trading in Class ETF Shares. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in



Class ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Class ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a Multi-Class Fund for the Class ETF Shares reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB's EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading Class ETF Shares, to the extent that the Multi-Class Fund for the Class ETF Shares holds municipal securities. Finally, as noted above, the issuer of Class ETF Shares will be required to comply with Rule 10A-3 under the Act for the initial and continued listing of Class ETF Shares, as provided under Rule 14.10(e)(1)(E).<sup>31</sup>

The Exchange believes that permitting Class ETF Shares to list on the Exchange 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 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

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<sup>31</sup> The Exchange notes that these proposed changes would subject Class ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

and the expected benefits of the Class ETF Shares described above would be to the benefit of investors.

The Exchange also believes that proposed Rule 14.11(n) to explicitly provide that the initial and continued listing standards applicable to Class ETF Shares, including the suspension of trading or removal standards, are designed to promote transparency and clarity in the Exchange's Rules.

The Exchange also believes that the corresponding changes to add Class ETF Shares in the Exchange's definitions, corporate governance requirements under Rule 14.10(e), and other provisions of Rule 14.11 in order to accommodate the proposed listing of Class ETF Shares will add clarity to the Exchange's Rulebook. ETF Shares, Managed Fund Shares, and Index Fund Shares are similarly included in these provisions. Therefore, the Exchange believes these are non-substantive changes meant only to subject Class ETF Shares to the same exemptions and provisions currently applicable to ETF Shares, among other product types, so that the treatment of these open-end management investment companies is consistent under the Exchange's rules.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

**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 proposal, by permitting the listing and trading of Class ETF Shares under exemptive relief from the Investment Company Act and the rules

and regulations thereunder, 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 Commission action on the proposed rule change specified in Section 19(b)(2) of the Act.<sup>32</sup>

**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.

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<sup>32</sup> 15 U.S.C. 78s(b)(2).

**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-2025-076

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to adopt Rule 14.11(n) to permit the generic listing and trading of Class Exchange-Traded Fund Shares

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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**

(a) Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to adopt Rule 14.11(n) to permit the generic listing and trading of Class Exchange-Traded Fund Shares. The Exchange is also proposing to make conforming changes to the Exchange’s definitions, corporate governance requirements under Rule 14.10(e), and other provisions of Rule 14.11 in order to accommodate the proposed listing of Class ETF Shares. The text of the proposed rule change is provided in Exhibit 5.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website ([https://www.cboe.com/us/equities/regulation/rule\\_filings/bzx/](https://www.cboe.com/us/equities/regulation/rule_filings/bzx/)), and at the principal office of the Exchange.

## **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**

This Amendment No. 2 to SR-CboeBZX-2025-076 amends and replaces in its entirety the proposal as originally submitted on June 2, 2025, and as amended by Amendment No. 1 on August 26, 2025. The Exchange submits this Amendment No. 2 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to adopt new Rule 14.11(n) for the purpose of permitting the generic listing and trading, or trading pursuant to unlisted trading privileges, of Class Exchange-Traded Fund ("ETF") Shares.<sup>3</sup> The Exchange is also proposing to make

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<sup>3</sup> The Exchange notes that it had previously submitted a version of this filing on April 15, 2024. See Securities Exchange Act Release No. 34-100034 (May 1, 2024) 89 FR 35255 (SR-CboeBZX-2024-026). On November 8, 2024, that filing was withdrawn and the Exchange submitted another filing. See Securities Exchange Act Release No. 101655 (November 25, 2024) 89 FR 92989 (SR-CboeBZX-2024-112). On June 2, 2025, the Exchange withdrew that filing and submitted this proposal.

conforming changes to the Exchange’s definitions, corporate governance requirements under Rule 14.10(e), and other provisions of Rule 14.11 in order to accommodate the proposed listing of Class ETF Shares.

Consistent with ETF Shares listed under the generic listing standards in Rule 14.11(l), Class ETF Shares would be permitted to be listed and traded on the Exchange without prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act.<sup>4</sup>

### *Background*

There are numerous applications for exemptive relief for Class ETF Shares currently before the Commission<sup>5</sup> that request exemptive relief similar to that previously granted to other funds.<sup>6</sup> This proposal would provide for the “generic” listing and/or trading of Class ETF Shares under proposed Rule 14.11(n) on the Exchange.

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<sup>4</sup> Rule 19b-4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO’s trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. As contemplated by this Rule 14.11(n), the Exchange proposes new Rule 14.11(n) to establish generic listing standards for Class ETF Shares (as defined herein) of the ETF Class (as defined herein) that would be required to operate as an ETF pursuant to the Multi-Class Fund Exemptive Relief (as defined herein) and be in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act of 1940 (the “Investment Company Act”), except as noted in the Multi-Class Fund Exemptive Relief. Class ETF Shares listed under proposed Rule 14.11(n) would therefore not need a separate proposed rule change pursuant to Rule 19b-4 before it can be listed and traded on the Exchange.

<sup>5</sup> See e.g., DFA Investment Dimensions Group Inc. and Dimensional Investment Group Inc., (amendment filed March 31, 2025); F/m Investments LLC (amendment filed April 10, 2025); Fidelity Hastings Street Trust and Fidelity Management & Research Company (amendment filed April 11, 2025); Morgan Stanley Institutional Fund Trust and Morgan Stanley Investment Management Inc. (amendment filed April 11, 2025); BlackRock Funds (amendment filed April 15, 2025); Guinness Atkinson Funds (amendment filed April 17, 2025); Metropolitan West Funds, TCW ETF Trust, and TCW Funds, Inc. (amendment filed April 22, 2025); and Northern Funds and Northern Trust Investments, Inc. (amendment filed May 2, 2025).

<sup>6</sup> Infra note 7.

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 Class ETF Shares.<sup>7</sup> After this relief was granted, there was limited public discourse about Class ETF Shares until 2019, when the prospect of providing blanket exemptive relief to Class ETF Shares was addressed in the Commission’s adoption of Rule 6c-11 (the “ETF Rule”)<sup>8</sup> under the Investment Company Act of 1940 (the “Investment Company Act”). 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 Class ETF Shares as part of the final rule. Instead, the Commission concluded that 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)<sup>9</sup> shortly after the implementation of the ETF Rule and, because there were no exemptive applications

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<sup>7</sup> 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 Investment Company 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”).

<sup>8</sup> See Securities Exchange Act Release No. 33-10695 (September 25, 2019) 84 FR 57162 (October 24, 2019) (the “ETF Rule Adopting Release”).

<sup>9</sup> 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).



before the Commission, the Exchange 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 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 Class ETF Shares, i.e., a fund offering both a class of mutual fund shares and a class of shares that are exchange traded, 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.<sup>10</sup> The Commission has granted by order specific exemptive relief (“Multi-Class Fund Exemptive Relief”) under the Investment Company Act on November 17, 2025, that permits, subject to certain conditions and requirements, a Multi-Class Fund (as defined below) to issue Class ETF Shares (as defined below) and one or more classes of shares that are not exchange-traded, among other things.<sup>11</sup>

### *Proposal*

Proposed Rule 14.11(n)(1) provides that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Class ETF Shares that meet the criteria of this Rule.<sup>12</sup>

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<sup>10</sup> Supra note 5.

<sup>11</sup> See Investment Company Act Release No. 35786 (November 17, 2025) (In the Matter of DFA Investment Dimensions Group Inc., Dimensional Investment Group Inc., Dimensional ETF Trust and Dimensional Fund Advisors LP) (File No. 812-15484).

<sup>12</sup> To the extent that Class ETF Shares do not satisfy one or more of the criteria in proposed Rule 14.11(n), the Exchange may file a separate proposal under Section 19(b) of the Act in order to list such securities on the Exchange. Any of the statements or representations in that proposal regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in

Proposed Rule 14.11(n)(2) provides that the proposed rule would be applicable only to Class ETF Shares. Except to the extent inconsistent with this Rule 14.11(n), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. Class ETF Shares are included within the definition of “security” or “securities” as such terms are used in the Rules of the Exchange.

Proposed Rule 14.11(n)(2) further provides that: (A) transactions in Class ETF Shares will occur throughout the Exchange’s trading hours; and (B) the Exchange will implement and maintain written surveillance procedures for Class ETF Shares.

Proposed Rule 14.11(n)(3)(A) provides that the term “Class ETF Shares” shall mean shares of the ETF Class<sup>13</sup> issued by a Multi-Class Fund.<sup>14</sup>

Proposed Rule 14.11(n)(3)(B) provides that the term “ETF Class” means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act (“Multi-Class Fund Exemptive Relief”), and (ii) is in compliance with the requirements of proposed Rules 14.11(n)(4)(b) and 14.11(n)(4)(B)(i)(a)(2), discussed below, on an initial and continued listing basis.

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any filing to list such Class ETF Shares shall constitute continued listing requirements for the Class ETF Shares. Further, in the event that Class ETF Shares become listed under proposed Rule 14.11(n) and subsequently can no longer satisfy the requirements of proposed Rule 14.11(n), such Class ETF Shares may be listed as a series of Index Fund Shares under Rule 14.11(c) or Managed Fund Shares under Rule 14.11(i), as applicable, as long as the Class ETF Shares meets all listing requirements applicable under the alternate listing rule. If the Class ETF Shares do change listing standards, the Exchange would have to comply with all of the requirements of Rule 19b-4(e) with respect to such Class ETF Shares.

<sup>13</sup> See proposed Rule 14.11(n)(3)(B).

<sup>14</sup> See proposed Rule 14.11(n)(3)(C).

Proposed Rule 14.11(n)(3)(C) provides that the term “Multi-Class Fund” means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange-traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief.

Proposed Rule 14.11(n)(3)(D) provides that the term “Reporting Authority” in respect of a particular Multi-Class Fund means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists Class ETF Shares (if the Exchange is trading such securities pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such Multi-Class Fund, including, but not limited to, the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares, net asset value, index or portfolio value, the current value of the portfolio of securities required to be deposited in connection with the issuance of Class ETF Shares, or other information relating to the issuance, redemption or trading of Class ETF Shares. A Multi-Class Fund may have more than one Reporting Authority, each having different functions.

Proposed Rule 14.11(n)(4) provides that the Exchange may approve Class ETF Shares of a Multi-Class Fund for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b-4(e) under the Act, provided that: (a) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class is in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as

noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule 14.11(n), as applicable, on an initial and continued listing basis.

Proposed Rule 14.11(n)(4)(A) provides that the requirements of paragraph (4) of this Rule must be satisfied by the Multi-Class Fund issuing the Class ETF Shares on an initial and continued listing basis. The Multi-Class Fund with respect to such Class ETF Shares must also satisfy the following criteria on an initial and, except for sub-paragraph (i) below, continued listing basis. Further, proposed Rule 14.11(n)(4)(A) provides that: (i) for each Multi-Class Fund, the Exchange will establish a minimum number of Class ETF Shares required to be outstanding at the time of commencement of trading on the Exchange; (ii) if an index underlying a Multi-Class Fund is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a “fire wall” around the personnel who have access to information concerning changes and adjustments to the index, and the index shall be calculated by a third party who is not a broker-dealer or fund adviser. If the investment adviser to an actively managed Multi-Class Fund is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Multi-Class Fund’s portfolio; and (iii) any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the composition, methodology, and related matters of an index underlying a Multi-Class Fund, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index. For actively managed Multi-Class Funds,

personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable portfolio.

Proposed Rule 14.11(n)(4)(B) provides that Class ETF Shares of each Multi-Class Fund will be listed and traded on the Exchange subject to application of the continued listing criteria therein. Proposed Rule 14.11(n)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, Class ETF Shares under any of the following circumstances: (a) if the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (b) if any of the other listing requirements set forth in this Rule are not continuously maintained; (c) if, following the initial twelve-month period after commencement of trading on the Exchange of the Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(n)(4)(B)(ii) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing.

Proposed Rule 14.11(n)(5) provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Multi-Class Fund in connection with the issuance of Class ETF Shares; the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares; net asset value; or other information relating to the purchase, redemption, or trading of Class ETF Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

The Exchange is also proposing to make corresponding amendments to include Class ETF Shares in other Exchange rules, which are intended to align the treatment of the proposed products with how other open-end management investment company shares (e.g., ETF Shares, Index Fund Shares, and Managed Fund Shares) are treated under the Exchange's rules. First, the Exchange is proposing to add Class ETF Shares to the definition of UTP Security in Rule 1.5(ee) and to amend Rule 14.11(c)(3)(A)(i)(a) in order to include Class ETF Shares in the definition of Derivative Securities Products. The Exchange believes this is appropriate to ensure that Class ETF Shares are treated

consistently with other open-end management investment company shares listed on the Exchange such as ETF Shares, Index Funds Shares, and Managed Fund Shares.

Second, the Exchange proposes to amend Rule 14.10(e)(1)(E)(ii) to exempt Class ETF Shares from the requirements of Rule 14.10(i)(1) in connection with the acquisition of the stock or assets of an affiliated registered investment company in a transaction that complies with Rule 17a-8 under the Investment Company Act and does not otherwise require shareholder approval under the Investment Company Act and the rules thereunder or any other Exchange rule.<sup>15</sup>

Third, the Exchange proposes to amend the definition of “Derivative Securities” in Rule 14.10(e)(1)(F)(ii) to add Class ETF Shares so the exclusions applicable to Derivative Securities in Rule 14.10 will also apply to Class ETF Shares. The Exchange believes this is appropriate to ensure that Class ETF Shares are treated consistently with other open-end management investment company shares listed on the Exchange such as ETF Shares, Index Fund Shares, and Managed Fund Shares. In addition, these issuers are exempt from the requirements relating to Audit Committees (as set forth in Rule 14.10(c)(3)), except for the applicable requirements of SEC Rule 10A-3.<sup>16</sup>

### *Discussion*

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<sup>15</sup> Rule 14.10(1)(F) provides that issuers whose only securities listed on the Exchange are non-voting preferred securities, debt securities or Derivative Securities, are exempt from the requirements relating to Independent Directors (as set forth in Rule 14.10(c)(2)), Compensation Committees (as set forth in Rule 14.10(c)(4)), Director Nominations (as set forth in Rule 14.10(c)(5)), Code of Conduct (as set forth in Rule 14.10(d)), and Meetings of Shareholders (as set forth in Rule 14.10(f)). In addition, these issuers are exempt from the requirements relating to Audit Committees (as set forth in Rule 14.10(c)(3)), except for the applicable requirements of SEC Rule 10A-3. Notwithstanding, if the issuer also lists its common stock or voting preferred stock, or their equivalent on the Exchange it will be subject to all the requirements of Exchange Rule 14.10.

<sup>16</sup> Id.

Proposed Rule 14.11(n) is based on Rule 14.11(l) related to the listing and trading of ETF Shares on the Exchange, which are issued under the Investment Company Act and qualify as ETF Shares under Rule 6c-11. ETF Shares are similar to Class ETF Shares because the ETF Class is required to operate as an ETF pursuant to the Multi-Class Fund Exemptive Relief and be in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act (except as noted in the Multi-Class Fund Exemptive Relief”).<sup>17</sup> The proposed Class ETF Shares generic listing rules would apply only to the class of shares that are exchange-traded. Because the ETF Class would be required to comply, among other things, with the conditions and requirements of Rule 6c-11 under the Investment Company Act, similar to ETF Shares under Rule 14.11(l), the Exchange believes that using Rule 14.11(l) as the basis for proposed Rule 14.11(n) is appropriate.

The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because the Exchange will perform ongoing surveillance of Class ETF Shares listed on the Exchange in order to ensure that (a) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with, the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of Rule 14.11(n), as applicable, on an initial and continued basis. The Exchange believes that the manipulation concerns are mitigated

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<sup>17</sup> See supra note 11.



by a combination of the Exchange's surveillance procedures, the Exchange's ability to halt trading under proposed Rule 14.11(n)(4)(B)(ii), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Rule 14.11(n)(4)(B)(i). The Exchange will halt trading in the Class ETF Shares under the conditions specified in Rule 11.18, "Trading Halts Due to Extraordinary Market Volatility." The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that have come from Rule 6c-11, specifically the additional flexibility provided through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional daily website disclosure obligations applicable under Rule 6c-11.<sup>18</sup> The Exchange also notes that there are firewall and other information barrier restrictions in place in the proposed rule text.<sup>19</sup> The Exchange believes that the combination of these factors will act to keep Class ETF Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of Class ETF Shares on the Exchange. The Exchange will monitor for compliance to ensure that (i) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is in otherwise compliance with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, and (iii) the ETF Class and the Multi-

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<sup>18</sup> The Exchange notes that the Commission came to a similar conclusion in several places in the ETF Rule Adopting Release. See ETF Rule Adopting Release at 15-18; 60-61; 69-70; 78-79; 82-84; and 95-96.

<sup>19</sup> See proposed Rule 14.11(n)(4)(A)(ii).

Class Fund each satisfies the requirements of 14.11(n), as applicable, on an initial and continuing basis. Specifically, the Exchange will review the website of Class ETF Shares listed on the Exchange in order to ensure that the requirements of Rule 6c-11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 14.11(a) would require an issuer of Class ETF Shares to notify the Exchange of any failure to comply with the requirements of proposed Rule 14.11(n), the Multi-Class Fund Exemptive Relief, or Rule 6c-11 under the Investment Company Act.

The Exchange may suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.<sup>20</sup> The Exchange also notes that Rule 14.11(a) requires any issuer to provide

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<sup>20</sup> Specifically, proposed Rule 14.11(n)(4)(B) provides that Class ETF Shares will be listed and traded on the Exchange subject to application of proposed Rule 14.11(n)(4)(B)(i) and (ii). Proposed Rule 14.11(n)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for Class ETF Shares under any of the following circumstances: (i) if the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (ii) if any of the other listing requirements set forth in this Rule are not continuously maintained; (iii) if, following the initial twelve month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or (iv) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(n)(4)(B)(ii) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing.

the Exchange with prompt notification after it becomes aware that (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or otherwise no longer complies with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class is no longer compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, or (iii) the ETF Class or the Multi-Class Fund no longer satisfies the requirements of Rule 14.11(n), as applicable, on an initial and continuing basis.<sup>21</sup>

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the Class ETF Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to ETF Shares, Index Fund Shares and Managed Fund Shares among other product types, to monitor trading in Class ETF Shares. The Exchange or the Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (“ISG”) or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Class ETF Shares and certain of their applicable underlying components from markets and other entities that are

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<sup>21</sup> The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to Rule 14.11(a) would itself be considered non-compliance with the requirements of proposed Rule 14.11(n) and would subject the Class ETF Shares to potential trading halts and the delisting process under Rule 14.12.

members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Finally, the issuer of Class ETF Shares will be required to comply with Rule 10A-3 under the Act for the initial and continued listing of Class ETF Shares, as provided under Rule 14.10(e)(1)(E).<sup>22</sup>

The Exchange notes that it may consider all relevant factors in exercising its discretion to halt or suspend trading in Class ETF Shares. Trading may be halted if the circuit breaker parameters in Rule 11.18 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which certain information about the Class ETF Shares that is required to be disclosed under Rule 6c-11 of the Investment Company Act is not being made available, including specifically where the Exchange becomes aware that the net asset value or the daily portfolio disclosure with respect to Class ETF Shares is not disseminated to all market participants at the same time, it will halt trading in such securities until such time as the net asset value or the daily portfolio disclosure is available to all market participants;<sup>23</sup> (2) if an interruption to the dissemination to the value of the index or reference asset on which Class ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or

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<sup>22</sup> See *supra* note 15. The Exchange notes that these proposed changes in Rule 14.10(e)(1)(E) would subject Class ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

<sup>23</sup> The Exchange will obtain a representation from the issuer of Class ETF Shares that the net asset value per share will be calculated daily and made available to all market participants at the same time, and the requirements pertaining to the Multi-Class Fund Exemptive Relief and Rule 6c-11 under the Investment Company Act in proposed Rule 14.11(n) will be satisfied.

circumstances detrimental to the maintenance of a fair and orderly market are present.

The Exchange deems Class ETF Shares to be equity securities and therefore they would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.<sup>24</sup>

## 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 requirements of Section 6(b) of the Act.<sup>25</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>26</sup> 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)<sup>27</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>24</sup> With respect to trading in Class ETF Shares, the Exchange represents that all of the BZX Member obligations related to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange Rules and federal securities laws, and the Exchange will continue to monitor its Members for compliance with such requirements, which are not changing as a result of the Multi-Class Fund Exemptive Relief order issued under the Investment Company Act.

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> Id.

The Exchange believes that proposed Rule 14.11(n) is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading Class ETF Shares on the Exchange provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 14.11(n)(4) sets forth initial and continued listing criteria applicable to Class ETF Shares, specifically providing that the Exchange may approve Class 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 that: (i) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (ii) the ETF Class is in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule 14.11(n), as applicable, on an initial and continued listing basis.<sup>28</sup> The Exchange will comply with all the requirements of Rule 19b-4(e) to specifically note that such Class ETF Shares are being listed on the Exchange pursuant to Rule 14.11(n).

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<sup>28</sup> The Exchange notes that eligibility to operate in reliance on Rule 6c-11 or any applicable exemptive relief under the Investment Company Act does not necessarily mean that an investment company would be listed on the Exchange pursuant to proposed Rule 14.11(n). To this point, an investment company that operates in reliance of exemptive relief providing for Class ETF Shares could alternatively be listed as a series of Index Fund Shares or Managed Fund Shares pursuant to Rule 14.11(c) or (i), respectively, and would be subject to all requirements under each of those rules. Further to this point, in the event that Class ETF Shares listed on the Exchange preferred to be listed as a series of Index Fund Shares or Managed Fund Shares (as applicable), nothing would preclude such security from changing to be listed as a series of Index Fund Shares or Managed Fund Shares (as applicable), as long as the security met each of the initial and continued listing obligations under the applicable rules.

Proposed Rule 14.11(n)(4)(B) provides that Class ETF Shares of each Multi-Class Fund will be listed and traded on the Exchange subject to application of proposed Rules 14.11(n)(4)(B)(i) and (ii). Proposed Rule 14.11(n)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, Class ETF Shares under any of the following circumstances: (a) if the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (b) if any of the other listing requirements set forth in this Rule 14.11(n) are not continuously maintained; (c) if, following the initial twelve month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. The Exchange notes that it may become aware that the issuer is no longer compliant with Rule 6c-11 or any applicable exemptive relief thereunder, as described in proposed Rule 14.11(n)(4)(B)(i)(a), as a result of either the Exchange identifying non-compliance through its own monitoring process or through notification by the issuer.

Proposed Rule 14.11(n)(4)(B)(ii) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be,

the Exchange requires that the Class ETF Shares be removed from Exchange listing. The Exchange also notes that it will obtain a representation from the issuer of Class ETF Shares stating that the requirements of Rule 6c-11 and the applicable exemptive relief under the Investment Company Act will be continuously satisfied and that the issuer will notify the Exchange of any failure to do so.

The Exchange further believes that proposed Rule 14.11(n) is designed to prevent fraudulent and manipulative acts and practices because of the robust surveillances in place on the Exchange as required under proposed Rule 14.11(n)(2)(C) along with the similarities of proposed Rule 14.11(n) to the rules related to other securities that are already listed and traded on the Exchange and which would qualify as Class ETF Shares. ETF Shares are identical to Class ETF Shares except that Class ETF Shares have received exemptive relief to operate an exchange-traded fund class in addition to classes of shares that are not exchange-traded. As such, the Exchange believes because the ETF Class would be required to comply, among other things, with the conditions and requirements of Rule 6c-11 under the Investment Company Act, similar to ETF Shares under Rule 14.11(l), the Exchange believes that using Rule 14.11(l) as the basis for proposed Rule 14.11(n) is appropriate.

The Exchange believes that the proposal is consistent with Section 6(b)(1) of the Act in that,<sup>29</sup> in addition to being designed to prevent fraudulent and manipulative acts and practices, the Exchange has the capacity to enforce proposed Rule 14.11(n) by performing ongoing surveillance of Class ETF Shares listed on the Exchange in order to ensure that (a) the Multi-Class Fund is, and continues to be, eligible to operate an ETF

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<sup>29</sup> 15 U.S.C. 78f(b)(1).



Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of Rule 14.11(n), as applicable, on an initial and continued basis. The Exchange believes that the manipulation concerns that such standards are intended to address are mitigated by a combination of the Exchange's surveillance procedures, the Exchange's ability to halt trading under the proposed Rule 14.11(n)(4)(B)(ii), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Rule 14.11(n)(4)(B)(i). The Exchange will also halt trading in Class ETF Shares under the conditions specified in Rule 11.18, "Trading Halts Due to Extraordinary Market Volatility." The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that have come from compliance with Rule 6c-11, specifically the additional flexibility provided through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional daily website disclosure obligations applicable under Rule 6c-11.<sup>30</sup> The Exchange believes that the combination of these factors will act to keep Class ETF Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of Class ETF Shares on the Exchange. The Exchange will monitor for compliance with Rule 6c-11 and any applicable exemptive relief in order to ensure that the continued listing

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<sup>30</sup> The Exchange notes that the Commission came to a similar conclusion in several places in the ETF Rule Adopting Release. See ETF Rule Adopting Release at 15-18; 60-61; 69-70; 78-79; 82-84; and 95-96.

standards are being met. Specifically, the Exchange plans to review the website of Class ETF Shares in order to ensure that the requirements of Rule 6c-11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 14.11(a) would require an issuer of Class ETF Shares to notify the Exchange of any failure to comply with Rule 6c-11 or the requirements of the Multi-Class Fund Exemptive Relief under the Investment Company Act.

To the extent that any of the requirements under Rule 6c-11 or Multi-Class Fund Exemptive Relief under the Investment Company Act are not being met, the Exchange may halt trading Class ETF Shares as provided in proposed Rule 14.11(n)(4)(B)(ii).

Further, the Exchange may also suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable. As discussed above, the Exchange also notes that Rule 14.11(a) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed Rule 14.11(n), which would include any failure of the issuer to comply with Rule 6c-11 or the Multi-Class Fund Exemptive Relief under the Investment Company Act.

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the Class ETF Shares in all trading sessions and to

deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Index Fund Shares, Managed Fund Shares and ETF Shares, among other product types, to monitor trading in Class ETF Shares. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Class ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a Multi-Class Fund for the Class ETF Shares reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB's EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading Class ETF Shares, to the extent that the Multi-Class Fund for the Class ETF Shares holds municipal securities. Finally, as noted above, the issuer of Class ETF Shares will be required to comply with Rule 10A-3 under the Act for the initial and continued listing of Class ETF Shares, as provided under Rule 14.10(e)(1)(E).<sup>31</sup>

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<sup>31</sup> The Exchange notes that these proposed changes would subject Class ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

The Exchange believes that permitting Class ETF Shares to list on the Exchange 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 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 Class ETF Shares described above would be to the benefit of investors.

The Exchange also believes that proposed Rule 14.11(n) to explicitly provide that the initial and continued listing standards applicable to Class ETF Shares, including the suspension of trading or removal standards, are designed to promote transparency and clarity in the Exchange's Rules.

The Exchange also believes that the corresponding changes to add Class ETF Shares in the Exchange's definitions, corporate governance requirements under Rule 14.10(e), and other provisions of Rule 14.11 in order to accommodate the proposed listing of Class ETF Shares will add clarity to the Exchange's Rulebook. ETF Shares, Managed Fund Shares, and Index Fund Shares are similarly included in these provisions. Therefore, the Exchange believes these are non-substantive changes meant only to subject Class ETF Shares to the same exemptions and provisions currently applicable to ETF Shares, among other product types, so that the treatment of these open-end management investment companies is consistent under the Exchange's rules.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 proposal, by permitting the listing and trading of Class ETF Shares under exemptive relief from the Investment Company Act and the rules and regulations thereunder, 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](mailto:rule-comments@sec.gov). Please include file number SR-CboeBZX-2025-076 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-2025-076. 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 filing 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-2025-076 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.<sup>32</sup>

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<sup>32</sup> 17 CFR 200.30-3(a)(12).

**Sherry R. Haywood,**

*Assistant Secretary.*

## EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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## Rules of Cboe BZX Exchange, Inc.

\* \* \* \* \*

## Rule 1.5. Definitions

\* \* \* \* \*

(a)-(dd)

(ee) The term “UTP Security” shall mean any security that is not listed on the Exchange but is traded on the Exchange pursuant to unlisted trading privileges, and a “UTP Derivative Security” shall mean any one of the following Derivative Securities that trades on the Exchange pursuant to unlisted trading privileges:

- Equity Linked Notes
- Index Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(c) or Nasdaq Stock Market LLC Rule 5705(b) and Investment Company Units listed pursuant to NYSE Arca, Inc. Rule 5.2- E(j)(3)
- Index-Linked Exchangeable Notes
- Equity Gold Shares
- Equity Index-Linked Securities
- Commodity-Linked Securities
- Currency-Linked Securities
- Fixed Income Index-Linked Securities
- Futures-Linked Securities
- Multifactor Index-Linked Securities
- Trust Certificates
- Currency and Index Warrants
- Portfolio Depository Receipts
- Trust Issued Receipts
- Commodity-Based Trust Shares
- Currency Trust Shares
- Commodity Index Trust Shares
- Commodity Futures Trust Shares
- Partnership Units
- Paired Trust Shares
- Trust Units
- Managed Fund Shares
- Managed Trust Securities



- Managed Portfolio Shares
- Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(m), Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. Rule 8.601-E, and Proxy Portfolio Shares listed pursuant to Nasdaq Stock Market LLC Rule 5750
- Selected Equity-linked Debt Securities (“SEEDS”)
- Exchange-Traded Fund Shares
- Class ETF Shares

\* \* \* \* \*

#### Rule 14.10. Corporate Governance Requirements

(a)-(d) No change.

#### (e) Exemptions from Certain Corporate Governance Requirements

This Rule provides the exemptions from the corporate governance rules afforded to certain types of Companies, and sets forth the phase-in schedules for initial public offerings, Companies emerging from bankruptcy, Companies transferring from other markets, and Companies ceasing to be Smaller Reporting Companies. This Rule also describes the applicability of the corporate governance rules to Controlled Companies and sets forth the phase-in schedule afforded to Companies ceasing to be Controlled Companies.

#### (1) Exemptions to the Corporate Governance Requirements

(A)-(D) No change.

(E) Management Investment Companies. Management investment companies (including business development companies) are subject to all the requirements of Rule 14.10, except that management investment companies registered under the Investment Company Act of 1940 are exempt from the requirements relating to:

(i) No change.

(ii) Management investment companies that are Index Fund Shares (as set forth in Rule 14.11(c)), Managed Fund Shares (as set forth in Rule 14.11(i)), Managed Portfolio Shares (as set forth in Rule 14.11(k)), ETF Shares (as set forth in Rule 14.11(l)), [and ]Tracking Fund Shares (as set forth in Rule 14.11(m), and Class ETF Shares (as set forth in Rule 14.11(n)) shall not be required to comply with Rule 14.10(i)(1) in connection with the acquisition of the stock or assets of an affiliated registered investment company in a transaction that complies with Rule 17a-8 under the Investment Company Act of 1940 and does not otherwise require shareholder approval under the Investment Company Act of 1940 and the rules thereunder or any other Exchange rule. Management investment companies defined as Derivative Securities under Rule

14.10(e)(1)(F)(ii) are exempt from additional requirements of Exchange Rule 14.10 as outlined in Exchange Rule 14.10(e)(1)(F)(i) below.

(iii) No change.

(F) Issuers of Non-Voting Preferred Securities, Debt Securities and Derivative Securities.

(i) No change.

(ii) For the purposes of this Rule 14.10 only, the term “Derivative Securities” is defined as the following: Commodity Futures Trust Shares (Rule 14.11(e)(7)), Commodity Index Trust Shares (Rule 14.11(e)(6)), Commodity-Based Trust Shares (Rule 14.11(e)(4)), Commodity-Linked Securities (Rule 14.11(d)(K)(ii)), Currency Trust Shares (Rule 14.11(e)(5)), Equity Gold Shares (Rule 14.11(e)(2)), Equity Index-Linked Securities (Rule 14.11(d)(K)(i)), ETF Shares (Rule 14.11(l)), Fixed Income Index-Linked Securities (Rule 14.11(d)(K)(iii)), Futures-Linked Securities (Rule 14.11(d)(K)(iv)), Index Fund Shares (Rule 14.11(c)), Index-Linked Exchangeable Notes (Rule 14.11(e)(1)), Managed Fund Shares (Rule 14.11(i)), Managed Portfolio Shares (Rule 14.11(k)), Managed Trust Securities (Rule 14.11(e)(10)), Class ETF Shares (Rule 14.11(n)), Multifactor Index-Linked Securities (Rule 14.11(d)(K)(v)), Partnership Units (Rule 14.11(e)(8)), Portfolio Depository Receipts (Rule 14.11(b)), SEEDS (Rule 14.11(e)(12)), Tracking Fund Shares (Rule 14.11(m)), Trust Certificates (Rule 14.11(e)(3)), and Trust Issued Receipts (Rule 14.11(f)). Derivative Securities are subject to certain exemptions to the Rule 14.10 as described in Exchange Rule 14.10(e)(1)(F).

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#### Rule 14.11. Other Securities

(a) – (b) No change.

(c) Index Fund Shares

(1)-(2) No change.

(3) Equity. The Exchange may approve a series of Index Fund Shares for listing and trading pursuant to Rule 19b-4(e) under the Act provided each of the following criteria is satisfied:

(A) Eligibility Criteria for Index Components.

(i) U.S. Index or Portfolio. Component stocks of an index or portfolio of (a) only U.S. Component Stocks or (b) US Component Stocks and cash underlying such series of Index Fund Shares listed pursuant to Rule 19b-

4(e) under the Act shall meet the following criteria upon initial listing and on a continual basis:

(a) Component stocks (excluding Index Fund Shares, Portfolio Depositary Receipts, Trust Issued Receipts, ETF Shares, Class ETF Shares, and Managed Fund Shares collectively, “Derivative Securities Products”) that in the aggregate account for at least 90% of the weight of the U.S. Component Stocks portion of the index or portfolio (excluding such Derivative Securities Products) each shall have a minimum market value of at least \$75 million;

\* \* \* \* \*

(n) Class ETF Shares

(1) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Class ETF Shares that meet the criteria of this Rule 14.11(n).

(2) Applicability. This Rule 14.11(n) is applicable only to Class ETF Shares. Except to the extent inconsistent with this Rule 14.11(n), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. Class ETF Shares are included within the definition of “security” or “securities” as such terms are used in the Rules of the Exchange.

(A) Transactions in Class ETF Shares will occur throughout the Exchange’s trading hours.

(B) Surveillance Procedures. The Exchange will implement and maintain written surveillance procedures for Class ETF Shares.

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

(A) Class ETF Shares. The term “Class ETF Shares” means shares of the ETF Class issued by a Multi-Class Fund.

(B) ETF Class. The term “ETF Class” means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act of 1940 (“Multi-Class Fund Exemptive Relief”), and (ii) is in compliance with the requirements of Rules 14.11(n)(4)(b) and 14.11(n)(4)(B)(i)(a)(2) below on an initial and continued listing basis.

(C) Multi-Class Fund. The term “Multi-Class Fund” means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange-traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief.

(D) Reporting Authority. The term “Reporting Authority” in respect of a particular Multi-Class Fund means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists Class ETF Shares (if the Exchange is trading such securities pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such Multi-Class Fund, including, but not limited to, the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares, net asset value, index or portfolio value, the current value of the portfolio of securities required to be deposited in connection with the issuance of Class ETF Shares, or other information relating to the issuance, redemption or trading of Class ETF Shares. A Multi-Class Fund may have more than one Reporting Authority, each having different functions.

(4) Initial and Continued Listing. The Exchange may approve Class ETF Shares of a Multi-Class Fund for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b-4(e) under the Act, provided that: (a) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (b) the ETF Class is in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act of 1940, except as noted in such Multi-Class Fund Exemptive Relief; and (c) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule 14.11(n), as applicable, on an initial and continued listing basis.

(A) The requirements of paragraph (4) of this Rule must be satisfied by the Multi-Class Fund issuing the Class ETF Shares on an initial and continued listing basis. The Multi-Class Fund with respect to such Class ETF Shares must also satisfy the following criteria on an initial and, except for subparagraph (i) below, continued listing basis:

(i) For each Multi-Class Fund, the Exchange will establish a minimum number of Class ETF Shares required to be outstanding at the time of commencement of trading on the Exchange;

(ii) If an index underlying a Multi-Class Fund is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a “fire wall” around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund adviser. If the investment adviser to an actively managed Multi-Class Fund is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Multi-Class Fund’s portfolio; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the composition,

methodology, and related matters of an index underlying a Multi-Class Fund, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable index. For actively managed Multi-Class Funds, personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable portfolio.

(B) Continued Listing. Class ETF Shares of each Multi-Class Fund will be listed and traded on the Exchange subject to application of the following continued listing criteria:

(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, Class ETF Shares under any of the following circumstances:

(a) if the Exchange becomes aware that, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act of 1940, except as noted in such Multi-Class Fund Exemptive Relief;

(b) if any of the other listing requirements set forth in this Rule 14.11(n) are not continuously maintained;

(c) if, following the initial twelve-month period after commencement of trading on the Exchange of the Class ETF Shares, there are fewer than 50 beneficial holders of the Class ETF Shares for 30 or more consecutive trading days; or

(d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

(ii) Termination. With respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing.

(5) Limitation of Exchange Liability. Neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Multi-Class Fund in connection with the issuance of Class ETF Shares; the amount of any dividend equivalent payment or cash distribution to holders of Class ETF

Shares; net asset value; or other information relating to the purchase, redemption, or trading of Class ETF Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

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