

Required fields are shown with yellow backgrounds and asterisks.

Filing by Cboe BZX Exchange, Inc.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<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	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

**Description**

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

**Contact Information**

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

First Name * Sarah	Last Name * Tadtman
Title * Counsel	
E-mail * stadtman@cboe.com	
Telephone * (913) 815-2970	Fax <input type="text"/>

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 03/18/2020	VP, Associate General Counsel
By Kyle Murray	<input type="text"/>
(Name *)	

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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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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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 Advance 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, security-based swap submission, or advance notice 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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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 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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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.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to eliminate the requirement that the Intraday Indicative Value be disseminated as set forth under Rule 14.11(c) (“Index Fund Shares”) for certain series of Index Fund Shares and under Rule 14.11(i) (“Managed Fund Shares”) for all series of Managed Fund Shares. Additionally, the Exchange proposes to define the term “Portfolio Holdings” as it pertains to Index Fund Shares.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on December 4, 2019.

(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, Counsel, (913) 815-7203.

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

(a) Purpose

This Amendment No. 1 to SR-CboeBZX-2020-007 amends and replaces in its entirety the proposal as originally submitted on January 21, 2020. The Exchange submits

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

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

this Amendment No. 1 in order to clarify certain points and add additional details to the proposal.

Exchange Rules 14.11(c) and 14.11(i) relate to the listing and trading of Index Fund Shares and Managed Fund Shares on the Exchange. Among a number of other requirements, numerous sub-paragraphs of each of these rules require that an intraday estimate of the value of a share of each series (the “Intraday Indicative Value” or “IIV”) of Index Fund Shares and Managed Fund Shares be disseminated and updated at least every 15 seconds.<sup>3</sup> The Exchange is proposing to eliminate the requirement to disseminate an IIV for all series of Managed Fund Shares<sup>4</sup> listed on the Exchange and for those series of Index Fund Shares that also publish their Portfolio Holdings (as defined below) on a daily basis.

As part of this proposal, the Exchange is also proposing to adopt proposed Rule 14.11(c)(1)(F) to define the term “Portfolio Holdings” which would mean the holdings of a particular series of Index Fund Shares that will form the basis for the calculation of its net asset value (“NAV”) at the end of the business day.<sup>5</sup> Existing Exchange Rules require

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<sup>3</sup> See subparagraphs (c)(3)(C), (c)(6)(A), and (c)(9)(B)(i)(e) of Exchange Rule 14.11. See also subparagraphs (i)(3)(C), (i)(3)(D), (i)(4)(B)(i), (i)(4)(B)(iii)(b), and (i)(4)(B)(iv) of Exchange Rule 14.11.

<sup>4</sup> The Exchange notes that Rule 14.11(i)(4)(B)(ii)(a) requires that the Disclosed Portfolio for a series of Managed Fund Shares be disseminated at least once daily and be made available to all market participants at the same time. Further, Rule 14.11(i)(4)(B)(iii)(b) requires that the Exchange consider suspension of trading in and commence delisting proceedings for a series of Managed Fund Shares where the Disclosed Portfolio is not made available to all market participants at the same time. As such, the Exchange is proposing to eliminate the IIV dissemination requirements entirely from Rule 14.11(i).

<sup>5</sup> For purposes of Rule 14.11(c), Portfolio Holdings would include various information, to the extent applicable, as listed in proposed subparagraphs (c)(1)(F)(i) through (c)(1)(F)(xi). The proposed definition of Portfolio Holdings is

issuers of Managed Fund Shares to provide IIV and daily disclosure of the Disclosed Portfolio.<sup>6</sup> Similarly, existing Exchange Rules require issuers of Index Fund Shares to disseminate an IIV for each fund, but do not universally require daily disclosure of a fund's underlying holdings.<sup>7</sup>

The dissemination of an IIV, together with disclosure of the fund's underlying holdings, was designed to allow investors to determine the value of the underlying portfolio of such funds on a daily basis and provide a close estimate of that value throughout the trading day. However, as consistently highlighted in the adopting release of Rule 17 CFR 270.6c-11 ("Rule 6c-11")<sup>8</sup> under the Investment Company Act of 1940<sup>9</sup> (the "1940 Act"), the Commission has expressed concerns regarding the accuracy of IIV estimates for certain Exchange-Traded Funds ("ETFs").<sup>10</sup> Specifically, the Commission

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substantively identical to the definition of "Disclosed Portfolio" as set forth in Rule 14.11(i)(3)(B).

<sup>6</sup> See subparagraphs (i)(3)(B), (i)(4)(A)(ii), and (i)(4)(B)(ii) of Exchange Rule 14.11. The term "Disclosed Portfolio" means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. See also Exchange Rule 14.11(i)(3)(B).

<sup>7</sup> The Exchange notes that Rule 14.11(c)(1)(B)(iv) would require the daily disclosure of certain information related to a fund's portfolio holdings where a fund "seeks to provide investment results that either exceed the performance of a specified...index...by a specified multiple or that correspond to the inverse (opposite) of the performance of a specified...index...by a specified multiple," however, the Exchange does not currently list any such funds.

<sup>8</sup> See Investment Company Act Release No. 10695 (September 25, 2019), 84 FR 57162 (October 24, 2019) (the "Adopting Release").

<sup>9</sup> 15 U.S.C. 80a-1.

<sup>10</sup> An Exchange-Traded Fund means a registered open-end investment company: (i) that issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any; and (ii) Whose shares are listed on a national securities exchange and traded at market-determined prices. See Id.

noted that an IIV may not accurately reflect the value of an ETF that holds securities that trade less frequently as such IIV can be stale or inaccurate.<sup>11</sup> Similarly, the Commission also expressed concerns with the IIV of ETFs with frequently traded component securities because “in today’s fast moving markets, given the dissemination lags, an IIV may not accurately reflect the value of an ETF that holds frequently traded component securities.”<sup>12</sup> Additionally, the Commission indicated that even in circumstances when an IIV may be reliable, retail investors do not have easy access to free, publicly available IIV information.<sup>13</sup> Further, in instances when IIV may be free and publicly available, it can be delayed by up to 45 minutes.<sup>14</sup>

Aside from the fact that the disseminated IIV may provide investors with stale or misleading data, the Commission also stated that market makers and authorized participants typically calculate their own intraday value of an ETF’s portfolio with proprietary algorithms that use an ETF’s daily portfolio disclosure and available pricing information.<sup>15</sup> Such information allows those market participants to support the arbitrage mechanism for ETFs. The arbitrage mechanism is designed to help keep the market price of ETF shares at or close to the NAV per share of an ETF, and is important because it helps to ensure ETF investors are treated equitably when buying and selling fund shares.<sup>16</sup> Therefore, as market participants who engage in arbitrage typically calculate their own intraday value of an ETF’s portfolio based on the ETF’s daily portfolio

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<sup>11</sup> See supra note 8, at 62.

<sup>12</sup> See Id.

<sup>13</sup> See Id., at 66.

<sup>14</sup> See Id.

<sup>15</sup> See Id., at 63.

<sup>16</sup> See Id., at 12.

disclosure and pricing information and use an IIV only as a secondary check to their own calculation,<sup>17</sup> the Commission noted that IIV was not necessary to support the arbitrage mechanism.<sup>18</sup> Given this, combined with shortcomings of the IIV noted above, the Commission concluded that ETFs will not be required to disseminate an IIV under Rule 6c-11.<sup>19</sup> As such, exchange listing rules are the only reason that a series of Managed Fund Shares is required to disseminate an IIV. Similarly, exchange listings rules are the only reason that a series of Index Fund Shares that also publishes its Portfolio Holdings on a daily basis is required to disseminate an IIV.

The Exchange believes that the limitations and shortcomings of IIV as it pertains to ETFs relying on Rule 6c-11 and highlighted in the Adopting Release are equally applicable to all Managed Fund Shares listed on the Exchange and Index Fund Shares for which the Portfolio Holdings are disclosed on a daily basis. The Exchange further agrees with the conclusion of the Adopting Release that the “IIV is not necessary to support the arbitrage mechanism for ETFs that provide daily portfolio holdings disclosure.” The transparency that comes from daily portfolio holdings disclosure provides market participants with sufficient information to facilitate the intraday valuation of the shares of an ETF, including Managed Fund Shares and Index Fund Shares for which Portfolio Holdings are disclosed daily, which, ignoring the many criticisms of IIV in the Adopting Order, renders IIV at the very least duplicative and unnecessary.

As such, the Exchange is proposing to eliminate the requirement for the dissemination of the IIV for all series of Managed Fund Shares and for Index Fund

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<sup>17</sup> See Id., at 63.

<sup>18</sup> See Id., at 65.

<sup>19</sup> See Id., at 61.

Shares for which Portfolio Holdings are disclosed on a daily basis. Additionally, the Exchange is proposing to make conforming numbering changes to Rule 14.11(i).

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>20</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>21</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. The proposed amendment seeks to eliminate the requirement that Managed Fund Shares and Index Fund Shares for which the Portfolio Holdings are disclosed daily, disseminate an IIV for the same reasons articulated in the Adopting Order for Rule 6c-11, which does not require the dissemination of IIV. The Exchange believes that the proposed amendment will eliminate the dissemination of potentially stale and misleading IIV information to market participants, as was also noted in the Adopting Order. Further, as the proposed rule text would only eliminate the requirement for series of Index Fund Shares<sup>22</sup> and Managed Fund Shares<sup>23</sup> that provide

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<sup>20</sup> 15 U.S.C. 78f(b).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> As provided in proposed Rules 14.11(c)(3)(C) and 14.11(c)(6)(A), a series of Index Fund Shares would only be exempt from IIV dissemination requirements where there is daily public website disclosure of Portfolio Holdings.



full daily portfolio transparency, such full daily portfolio transparency would provide market participants with a tool to calculate the IIV of a series of Managed Fund Shares or Index Fund Shares, which the Exchange believes generally mitigates the need for the dissemination of an IIV. Nonetheless, nothing in this proposal limits the ability of such Index Fund Shares or Managed Fund Shares from disseminating the IIV should they choose to do so. Further, the Exchange notes that its rules still include certain circumstances in which an issuer would be required to disseminate an IIV.<sup>24</sup>

As a result of the proposed rule change, the Exchange believes issuers may benefit from cost savings because of the eliminated requirement to disseminate an IIV. The reduced cost could also result in lower barriers to entry for new issuers and new series of Managed Fund Shares and Index Fund Shares for which the Portfolio Holdings are disclosed daily, which will result in enhanced competition among products and issuers of such funds, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.

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<sup>23</sup> See supra note 4.

<sup>24</sup> For example, a series of Index Fund Shares that does not provide daily portfolio transparency would still be required to disseminate an IIV. Additionally, IIV dissemination will continue to be required for certain products that are not subject to the Investment Company Act of 1940. Moreover, the Exchange notes that Exchange Rules related to the listing and trading of other product types (that is, products that are not listed pursuant to Rule 14.11(c) or 14.11(i)) require the dissemination of an IIV, which the Exchange is not proposing to eliminate at this time. Specifically, the Exchange is only proposing to remove the requirement of IIV dissemination as it pertains to certain Index Fund Shares and all Managed Fund Shares because such product types represent the vast majority of products listed on the Exchange and may consider proposing to eliminate the IIV dissemination requirement for other product types in a future proposal.

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. To the contrary, the Exchange believes that issuers may benefit from cost savings and lower barriers to entry because of the eliminated requirement to disseminate an IIV. In turn, the proposed rule change will enable increased product competition among issuers of such funds, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.

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.

6. Extension of Time Period for Commission Action

Not applicable.

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.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

Exhibit 2 – 4: Not applicable.

Exhibit 5: Proposed rule text.

EXHIBIT 1

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBZX-2020-007 Amendment No. 1]

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Eliminate the Requirement that the Intraday Indicative Value be Disseminated as Set Forth Under Rule 14.11(c), Index Fund Shares, for Certain Series of Index Fund Shares and Rule 14.11(i), Managed 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**

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to eliminate the requirement that the Intraday Indicative Value be disseminated as set forth under Rule 14.11(c) (“Index Fund Shares”), for certain series of Index Fund Shares and Rule 14.11(i) (“Managed Fund 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 Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

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

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

#### **1. Purpose**

Exchange Rules 14.11(c) and 14.11(i) relate to the listing and trading of Index Fund Shares and Managed Fund Shares on the Exchange. Among a number of other requirements, numerous sub-paragraphs of each of these rules require that an intraday estimate of the value of a share of each series (the "Intraday Indicative Value" or "IIV") of Index Fund Shares and Managed Fund Shares be disseminated and updated at least every 15 seconds.<sup>3</sup> The Exchange is proposing to eliminate the requirement to disseminate an IIV for all series of Managed Fund Shares<sup>4</sup> listed on the Exchange and for

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<sup>3</sup> See subparagraphs (c)(3)(C), (c)(6)(A), and (c)(9)(B)(i)(e) of Exchange Rule 14.11. See also subparagraphs (i)(3)(C), (i)(3)(D), (i)(4)(B)(i), (i)(4)(B)(iii)(b), and (i)(4)(B)(iv) of Exchange Rule 14.11.

<sup>4</sup> The Exchange notes that Rule 14.11(i)(4)(B)(ii)(a) requires that the Disclosed Portfolio for a series of Managed Fund Shares be disseminated at least once daily and be made available to all market participants at the same time. Further, Rule 14.11(i)(4)(B)(iii)(b) requires that the Exchange consider suspension of trading in

those series of Index Fund Shares that also publish their Portfolio Holdings (as defined below) on a daily basis.

As part of this proposal, the Exchange is also proposing to adopt proposed Rule 14.11(c)(1)(F) to define the term “Portfolio Holdings” which would mean the holdings of a particular series of Index Fund Shares that will form the basis for the calculation of its net asset value (“NAV”) at the end of the business day.<sup>5</sup> Existing Exchange Rules require issuers of Managed Fund Shares to provide IIV and daily disclosure of the Disclosed Portfolio.<sup>6</sup> Similarly, existing Exchange Rules require issuers of Index Fund Shares to disseminate an IIV for each fund, but do not universally require daily disclosure of a fund’s underlying holdings.<sup>7</sup>

The dissemination of an IIV, together with disclosure of the fund’s underlying holdings, was designed to allow investors to determine the value of the underlying

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and commence delisting proceedings for a series of Managed Fund Shares where the Disclosed Portfolio is not made available to all market participants at the same time. As such, the Exchange is proposing to eliminate the IIV dissemination requirements entirely from Rule 14.11(i).

<sup>5</sup> For purposes of Rule 14.11(c), Portfolio Holdings would include various information, to the extent applicable, as listed in proposed subparagraphs (c)(1)(F)(i) through (c)(1)(F)(xi). The proposed definition of Portfolio Holdings is substantively identical to the definition of “Disclosed Portfolio” as set forth in Rule 14.11(i)(3)(B).

<sup>6</sup> See subparagraphs (i)(3)(B), (i)(4)(A)(ii), and (i)(4)(B)(ii) of Exchange Rule 14.11. The term “Disclosed Portfolio” means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company’s calculation of net asset value at the end of the business day. See also Exchange Rule 14.11(i)(3)(B).

<sup>7</sup> The Exchange notes that Rule 14.11(c)(1)(B)(iv) would require the daily disclosure of certain information related to a fund’s portfolio holdings where a fund “seeks to provide investment results that either exceed the performance of a specified...index...by a specified multiple or that correspond to the inverse (opposite) of the performance of a specified...index...by a specified multiple,” however, the Exchange does not currently list any such funds.

portfolio of such funds on a daily basis and provide a close estimate of that value throughout the trading day. However, as consistently highlighted in the adopting release of Rule 17 CFR 270.6c-11 (“Rule 6c-11”)<sup>8</sup> under the Investment Company Act of 1940<sup>9</sup> (the “1940 Act”), the Commission has expressed concerns regarding the accuracy of IIV estimates for certain Exchange-Traded Funds (“ETFs”).<sup>10</sup> Specifically, the Commission noted that an IIV may not accurately reflect the value of an ETF that holds securities that trade less frequently as such IIV can be stale or inaccurate.<sup>11</sup> Similarly, the Commission also expressed concerns with the IIV of ETFs with frequently traded component securities because “in today’s fast moving markets, given the dissemination lags, an IIV may not accurately reflect the value of an ETF that holds frequently traded component securities.”<sup>12</sup> Additionally, the Commission indicated that even in circumstances when an IIV may be reliable, retail investors do not have easy access to free, publicly available

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<sup>8</sup> See Investment Company Act Release No. 10695 (September 25, 2019), 84 FR 57162 (October 24, 2019) (the “Adopting Release”).

<sup>9</sup> 15 U.S.C. 80a-1.

<sup>10</sup> An Exchange-Traded Fund means a registered open-end investment company: (i) that issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any; and (ii) Whose shares are listed on a national securities exchange and traded at market-determined prices. See Id.

<sup>11</sup> See supra note 9, at 62.

<sup>12</sup> See Id.

IIV information.<sup>13</sup> Further, in instances when IIV may be free and publicly available, it can be delayed by up to 45 minutes.<sup>14</sup>

Aside from the fact that the disseminated IIV may provide investors with stale or misleading data, the Commission also stated that market makers and authorized participants typically calculate their own intraday value of an ETF's portfolio with proprietary algorithms that use an ETF's daily portfolio disclosure and available pricing information.<sup>15</sup> Such information allows those market participants to support the arbitrage mechanism for ETFs. The arbitrage mechanism is designed to help keep the market price of ETF shares at or close to the NAV per share of an ETF, and is important because it helps to ensure ETF investors are treated equitably when buying and selling fund shares.<sup>16</sup> Therefore, as market participants who engage in arbitrage typically calculate their own intraday value of an ETF's portfolio based on the ETF's daily portfolio disclosure and pricing information and use an IIV only as a secondary check to their own calculation,<sup>17</sup> the Commission noted that IIV was not necessary to support the arbitrage mechanism.<sup>18</sup> Given this, combined with shortcomings of the IIV noted above, the Commission concluded that ETFs will not be required to disseminate an IIV under Rule 6c-11.<sup>19</sup> As such, exchange listing rules are the only reason that a series of Managed

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<sup>13</sup> See Id., at 66.

<sup>14</sup> See Id.

<sup>15</sup> See Id., at 63.

<sup>16</sup> See Id., at 12.

<sup>17</sup> See Id., at 63.

<sup>18</sup> See Id., at 65.

<sup>19</sup> See Id., at 61.



Fund Shares is required to disseminate an IIV. Similarly, exchange listings rules are the only reason that a series of Index Fund Shares that also publishes its Portfolio Holdings on a daily basis is required to disseminate an IIV.

The Exchange believes that the limitations and shortcomings of IIV as it pertains to ETFs relying on Rule 6c-11 and highlighted in the Adopting Release are equally applicable to all Managed Fund Shares listed on the Exchange and Index Fund Shares for which the Portfolio Holdings are disclosed on a daily basis. The Exchange further agrees with the conclusion of the Adopting Release that the “IIV is not necessary to support the arbitrage mechanism for ETFs that provide daily portfolio holdings disclosure.” The transparency that comes from daily portfolio holdings disclosure provides market participants with sufficient information to facilitate the intraday valuation of the shares of an ETF, including Managed Fund Shares and Index Fund Shares, for which Portfolio Holdings are disclosed daily, which, ignoring the many criticisms of IIV in the Adopting Order, renders IIV at the very least duplicative and unnecessary.

As such, the Exchange is proposing to eliminate the requirement for the dissemination of the IIV for all series of Managed Fund Shares and for Index Fund Shares, for which Portfolio Holdings are disclosed on a daily basis.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>20</sup> Specifically, the Exchange believes the

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<sup>20</sup> 15 U.S.C. 78f(b).

proposed rule change is consistent with the Section 6(b)(5)<sup>21</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. The proposed amendment seeks to eliminate the requirement that Managed Fund Shares and Index Fund Shares for which the Portfolio Holdings are disclosed daily, disseminate an IIV for the same reasons articulated in the Adopting Order for Rule 6c-11, which does not require the dissemination of IIV. The Exchange believes that the proposed amendment will eliminate the dissemination of potentially stale and misleading IIV information to market participants, as was also noted in the Adopting Order. Further, as the proposed rule text would only eliminate the requirement for series of Index Fund Shares<sup>22</sup> and Managed Fund Shares<sup>23</sup> that provide full daily portfolio transparency, such full daily portfolio transparency would provide market participants with a tool to calculate the IIV of a series of Managed Fund Shares or Index Fund Shares, which the Exchange believes generally mitigates the need for the dissemination of an IIV. Nonetheless, nothing in this proposal limits the ability of such Index Fund Shares or Managed Fund Shares from disseminating the IIV should they

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<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> As provided in proposed Rules 14.11(c)(3)(C) and 14.11(c)(6)(A), a series of Index Fund Shares would only be exempt from IIV dissemination requirements where there is daily public website disclosure of Portfolio Holdings.

<sup>23</sup> See supra note 4.

choose to do so. Further, the Exchange notes that its rules still include certain circumstances in which an issuer would be required to disseminate an IIV.<sup>24</sup>

As a result of the proposed rule change, the Exchange believes issuers may benefit from cost savings because of the eliminated requirement to disseminate an IIV. The reduced cost could also result in lower barriers to entry for new issuers and new series of Managed Fund Shares and Index Fund Shares for which the Portfolio Holdings are disclosed daily, which will result in enhanced competition among products and issuers of such funds, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.

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. To the contrary, the Exchange believes that issuers may benefit from cost savings and lower barriers to entry because of the eliminated requirement to disseminate an IIV. In turn, the proposed rule change will enable increased product competition

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<sup>24</sup> For example, a series of Index Fund Shares that does not provide daily portfolio transparency would still be required to disseminate an IIV. Additionally, IIV dissemination will continue to be required for certain products that are not subject to the Investment Company Act of 1940. Moreover, the Exchange notes that Exchange Rules related to the listing and trading of other product types (that is, products that are not listed pursuant to Rule 14.11(c) or 14.11(i)) require the dissemination of an IIV, which the Exchange is not proposing to eliminate at this time. Specifically, the Exchange is only proposing to remove the requirement of IIV dissemination as it pertains to certain Index Fund Shares and all Managed Fund Shares because such product types represent the vast majority of products listed on the Exchange and may consider proposing to eliminate the IIV dissemination requirement for other product types in a future proposal.

among issuers of such funds, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2020-007 Amendment No. 1 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-2020-007 Amendment No. 1.

This file number should be included on the subject line if e-mail 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2020-007 Amendment No. 1 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to  
delegated authority.<sup>25</sup>

Secretary

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<sup>25</sup> 17 CFR 200.30-3(a)(12).

## EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe BZX Exchange, Inc.

\* \* \* \* \*

## Rule 14.11 Other Securities

(a)-(b) No changes.

(c) Index Fund Shares

(1) Definitions. The following terms shall, unless the context otherwise requires, have the meanings herein specified:

(A)-(E) No change.

(F) Portfolio Holdings. The term “Portfolio Holdings” means the holdings of a particular series of Index Fund Shares that will form the basis for the calculation of its net asset value at the end of the business day. For purposes of this rule, Portfolio Holdings includes the following information, to the extent applicable:

(i) Ticker symbol;

(ii) CUSIP or other identifier;

(iii) Description of the holding;

(iv) Identity of the security, commodity, index, or other asset upon which the derivative is based;

(v) The strike price for any options;

(vi) The quantity of each security or other asset held as measured by:

(a) Par value;

(b) Notional value;

(c) Number of shares;

(d) Number of contracts;

(e) Number of units;

(vii) Maturity date;

(viii) Coupon rate;

(ix) Effective date;

(x) Market value; and

(xi) Percentage weighting of the holding in the portfolio.

(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)-(B) No change.

(C) Disseminated Information. Where a series of Index Fund Shares does not publish its Portfolio Holdings on its website on a daily basis, [T]the Reporting Authority will disseminate for each series of Index Fund Shares an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value"). The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during Regular Trading Hours; to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated Intraday Indicative Value must remain available throughout the Exchange's trading hours. All requirements set forth in this paragraph must be satisfied upon initial listing and on a continual basis. Where a series of Index Fund Shares publishes its Portfolio Holdings on its website on a daily basis, there is no obligation to disseminate an Intraday Indicative Value.

(D)-(F) No change.

(4)-(5) No change.

(6) The following provisions shall apply to all series of Index Fund Shares listed pursuant Rules 14.11(c)(4) and (5) above:



(A) Disseminated Information. Where a series of Index Fund Shares does not publish its Portfolio Holdings on its website on a daily basis, [T]the Reporting Authority will disseminate for each series of Index Fund Shares an estimate, updated at least every 15 seconds, of the value of a share of each series (the “Intraday Indicative Value”). The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value may be calculated by the Exchange or by an independent third party throughout the day using prices obtained from independent market data providers or other independent pricing sources such as a broker-dealer or price evaluation services. All requirements set forth in this paragraph must be satisfied upon initial listing and on a continual basis. Where a series of Index Fund Shares publishes its Portfolio Holdings on its website on a daily basis, there is no obligation to disseminate an Intraday Indicative Value.

(B)-(C) No change.

(7)-(8) No change.

(9) Each series of Index Fund Shares will be listed and traded on the Exchange subject to application of the following criteria:

(A) No change.

(B) Continued Listing —

(i) the Exchange will consider the suspension of trading in and will initiate delisting proceedings for a series of Index Fund Shares pursuant to Rule 14.12 under any of the following circumstances:

(a)-(d) No change.

(e) if there is an interruption to the Intraday Indicative Value, if applicable, being disseminated at least every 15 seconds during Regular Trading Hours and such interruption persists past the trading day in which it occurred; or

(f) No change.

(C) No change.

(10) No change.

(d)-(h) No changes.

(i) Managed Fund Shares

(1)-(2) No change.

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

(A)-(B) No change.

[(C) Intraday Indicative Value. The term “Intraday Indicative Value” is the estimated indicative value of a Managed Fund Share based on current information regarding the value of the securities and other assets in the Disclosed Portfolio.]

[(D)] (C) Reporting Authority. The term “Reporting Authority” in respect of a particular series of Managed Fund Shares means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists a particular series of Managed Fund Shares (if the Exchange is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, [the Intraday Indicative Value;] the Disclosed Portfolio; the amount of any cash distribution to holders of Managed Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Managed Fund Shares. A series of Managed Fund Shares may have more than one Reporting Authority, each having different functions.

[(E)] (D) Normal Market Conditions. The term “Normal Market Conditions” includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

(4) *Initial and Continued Listing.* Managed Fund Shares will be listed and traded on the Exchange subject to application of the following criteria:

(A) No change.

(B) Continued Listing. Each series of Managed Fund Shares will be listed and traded on the Exchange subject to application of the following continued listing criteria:

[(i) Intraday Indicative Value. The Intraday Indicative Value for Managed Fund Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours, as defined in Exchange Rule 1.5(w). All requirements set forth in this paragraph must be satisfied upon initial listing and on a continual basis.]

[(ii)] (i) Disclosed Portfolio.

(a) The Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

(b) The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.

[(iii)] (ii) Suspension of trading or removal. The Exchange will consider the suspension of trading in and will commence delisting proceedings for a series of Managed Fund Shares pursuant to Rule 14.12 under any of the following circumstances:

(a) No change.

(b) if [an interruption to the dissemination of the value of the Intraday Indicative Value persists past the trading day in which it occurred or is no longer calculated or available or] the Disclosed Portfolio is not made available to all market participants at the same time;

(c)-(f) No change.

[(iv)] (iii) Trading Halt. [If the Intraday Indicative Value of a series of Managed Fund Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value occurs. If the interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, i]If the Exchange becomes aware that the net asset value or the Disclosed Portfolio with respect to a series of Managed Fund Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants.

[(v)] (iv) Termination. Upon termination of an Investment Company, the Exchange requires that Managed Fund Shares issued in connection with such entity be removed from listing on the Exchange.

[(vi)] (v) Voting. Voting rights shall be as set forth in the applicable Investment Company prospectus.

(C) No change.

(5)-(7) No change.