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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88968; File No. SR-CboeBZX-2020-042]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Accommodate Exchange Listing and Trading of Options-Linked Securities

May 28, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 15, 2020, 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”) proposes to amend Exchange Rule 14.11(d) (“Securities Linked to the Performance of Indexes and Commodities (Including Currencies)”) to accommodate Exchange listing and trading of Options-Linked Securities. The text of the proposed rule change is provided in Exhibit 5.

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 14.11(d) provides for Exchange listing and trading of Securities Linked to the Performance of Indexes and Commodities (Including Currencies) ("Linked Securities").³ The Exchange proposes to amend Rule 14.11(d) to add Options-Linked Securities to the type of Linked Securities permitted to list and trade on the Exchange.

The proposed amendment would include Options-Linked Securities in the list of Linked-Securities set forth in paragraph (d) of Rule 14.11. Additionally, the proposal would provide that the payment at maturity with respect to Options-Linked Securities is based on the performance of U.S. exchange-traded options on any one or combination of the following: (a) Index Fund Shares; (b) Managed Fund Shares, (c) Exchange-Traded Fund Shares; (d) Linked Securities; (e) securities defined in Rule 14.11; (f) the S&P 100 Index, the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, the MSCI EAFE Index, the MSCI Emerging Markets Index, the NYSE FANG Index, the Russell 2000 Index, the Russell 1000 Index, the Russell 1000 Growth Index, the Russell 1000 Value Index, the Cboe Volatility Index, Communication

³ Rule 14.11(d) currently accommodates Exchange listing and trading of Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities (collectively referred to as "Linked Securities").

Services Select Sector Index, the Consumer Discretionary Select Sector Index, the Consumer Staples Select Sector Index, the Energy Select Sector Index, the Financial Select Sector Index, the Health Care Select Sector Index, the Industrial Select Sector Index, the Materials Select Sector Index, the Real Estate Select Sector Index, the Technology Select Sector Index, or the Utilities Select Sector Index; or (g) a basket or index of any of the foregoing (an “Options Reference Asset”). The proposal would also include Options Reference Assets as a Multifactor Reference Asset, which would result in Options-Linked Securities as being included as Multifactor Index-Linked Securities.

The proposal would move existing Rule 14.11(d)(2)(K)(v) (Multifactor Index-Linked Securities Listings Standards) to Rule 14.11(d)(2)(K)(vi), and would set forth the Option-Linked Securities Listing Standards in Rule 14.11(d)(2)(K)(v). Proposed Rule 14.11(d)(2)(K)(v)(a) provides that Option-Linked Securities must meet both of the following initial listing criteria: (1) the value of the Options Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange’s regular market session; and (2) in the case of Options-Linked Securities that are periodically redeemable, the indicative value of the subject Options Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange’s regular market session. Proposed Rule 14.11(d)(2)(K)(v)(b) provides that Option-Linked Securities must meet the following continued listing criteria: (1) the Exchange will consider the suspension of trading in, and will initiate delisting proceedings pursuant to Rule 14.12 if any of the initial listing criteria described above are not continuously maintained; and (2) the Exchange will consider the suspension of trading in, and will initiate delisting proceedings pursuant to Rule 14.12 under any of the following circumstances: (A) if the

aggregate market value or the principal amount of the Options-Linked Securities publicly held is less than \$400,000; (B) if an interruption to the dissemination of the value of the Options Reference Asset persists past the trading day in which it occurred or is no longer calculated or available and a new Options Reference Asset is substituted, unless the new Options Reference Asset meets the requirements of this Rule 14.11(d)(2)(K); or (C) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.⁴

With respect to equity securities underlying Options Reference Assets, the Exchange notes that Index Fund Shares,⁵ Managed Fund Shares,⁶ Exchange-Traded Fund Shares,⁷ and Linked Securities and securities as defined in Rule 14.11 are subject to initial and continued listing criteria under applicable Exchange Rules as approved by the Commission. In addition, the Commission has approved or issued a notice of effectiveness to permit listing on a national securities exchange of securities based on certain Indexes.⁸ Further, Index Fund Shares,

⁴ Proposed Rule 14.11(d)(2)(K)(v)(b) is substantially the same as existing Rules 14.11(d)(2)(K)(ii)(b), 14.11(d)(2)(K)(iii)(c), and 14.11(d)(2)(K)(iv)(c).

⁵ See Exchange Rule 14.11(c).

⁶ See Exchange Rule 14.11(i).

⁷ See Exchange Rule 14.11(l).

⁸ See, e.g., Securities Exchange Act Release Nos. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (SR-Amex-92-18) (approving the listing and trading of Portfolio Depositary Receipts based on the S&P 500 Index); 39525 (January 8, 1998), 63 FR 2438 (January 15, 1998) (SR-Amex-97-29) (approving the listing and trading of DIAMONDS Trust Units, Portfolio Depositary Receipts based on the Dow Jones Industrial Average); 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (SR-CBOE-97-26) (approving the listing and trading of options on the Dow Jones Industrial Average); 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (SR-CBOE-83-08) (approving the listing and trading of options on the S&P 500 Index on the CBOE); 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR-Amex-98-34) (Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3 and 4 to the Proposed Rule Change Relating to the Listing and Trading of Shares of the Nasdaq-100 Trust); 87437 (October 31, 2019), 84 FR 59900

Managed Fund Shares, Exchange-Traded Fund Shares, Linked Securities or securities defined in Rule 14.11 based on the Indexes have been listed on national securities exchanges under generic listing criteria applicable to such securities. With respect to options on the Indexes, options on all of the Indexes are currently traded on U.S. options exchanges.

Finally, all Options-Linked Securities listed pursuant to Exchange Rule 14.11(d) would be included within the definition of securities as such terms are used in the Exchange's rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Linked Securities. The Exchange also believes that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities. The proposed addition of Options Reference Assets, as described above, would also work in conjunction with the initial and continued listing criteria related to surveillance procedures and trading guidelines for Linked Securities.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Options-Linked Securities in all trading sessions and to deter and detect violations of Exchange Rules. The issuer of a series of Options- Linked Securities will be required to comply with Rule 10A-3 under the Act⁹ for the initial and continued listing of Linked Securities,

(November 6, 2019) (SR-NYSEArca-2019-62) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the Innovator MSCI EAFE Power Buffer ETFs and Innovator MSCI Emerging Markets Power Buffer ETFs under NYSE Arca Rule 8.600-E).

⁹ 17 CFR 240.10A-3.

as provided in Exchange Rule 14.11(d)(2)(F). The Exchange notes that the proposed change is not intended to amend any other component or requirement of Exchange Rule 14.11(d).

Quotation and last sale information for Options-Linked Securities, Index Fund Shares, Managed Fund Shares, Exchange-Traded Fund Shares, Linked Securities, and securities defined in Rule 14.11 are available via the Consolidated Tape Association (“CTA”) high speed line. Quotation and last sale information for such securities also will be available from the exchange on which they are listed. Quotation and last sale information for options on Index Fund Shares, Managed Fund Shares, Exchange-Traded Fund Shares, Linked Securities, securities defined in Rule 14.11 and the Indexes will be available via the Options Price Reporting Authority and major market data vendors. Information regarding values of the Indexes is available from major market data vendors.

The Exchange believes that the proposed rule change will provide investors with the ability to better diversify and hedge their portfolios using an exchange-listed security without having to trade directly in the underlying options contracts, and will facilitate the listing and trading of additional Linked Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

With respect to equity securities underlying Options Reference Assets, the Exchange notes that Index Fund Shares, Managed Fund Shares, Exchange-Traded Fund Shares, Linked Securities and securities defined in Rule 14.11 are subject to Exchange initial and continued listing criteria under applicable Exchange rules as approved by the Commission. In addition, the Commission has approved or issued a notice of effectiveness to permit listing on a national securities exchange of securities based on certain Indexes.¹³ With respect to options on the Indexes, options on all of the Indexes are currently traded on U.S. options exchanges. All options included in an Options Reference Asset will be U.S. exchange-traded.

Any Options-Linked Securities would be required to meet the following initial listing criteria in proposed Rule 14.11(d)(2)(K)(v)(a): (1) the value of the Options Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; and (2) in the case of Options-Linked Securities that are periodically redeemable, the indicative value of the subject Options Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange's regular market

¹² Id.

¹³ Supra note 8.

session. Options-Linked Securities also will be subject to the continued listing criteria in proposed Rule 14.11(d)(2)(K)(v)(b) as described above. Finally, all Options-Linked Securities listed pursuant to Exchange Rule 14.11(d) would be included within the definition of “security” or “securities” as such terms are used in the Exchange’s rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Linked Securities. The Exchange also believes that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities. The proposed addition of Options Reference Assets, as described above, would also work in conjunction with the initial and continued listing criteria related to surveillance procedures and trading guidelines for Linked Securities. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Options Linked Securities in all trading sessions and to deter and detect violations of Exchange rules. Trading in the securities may be halted under the conditions specified in Exchange Rule 14.11(d)(2)(H).

The Exchange believes that the proposed rule change will provide investors with the ability to better diversify and hedge their portfolios using an exchange listed security without having to trade directly in the underlying options contracts, and will facilitate the listing and trading of additional Linked Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 proposed rule change will facilitate the listing and trading of additional Linked Securities that

will enhance competition among market participants, to the benefit of investors and the marketplace.

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

he [sic] 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. Please include File Number SR-CboeBZX-2020-042 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-2020-042. 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, DC 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2020-042, 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.¹⁴

J. Matthew DeLesDernier,

Assistant Secretary.

¹⁴ 17 CFR 200.30-3(a)(12).

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