March 23, 2020

Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: File No. SR-CboeBZX-2019-107, Amendment No. 1

Dear Secretary:

On February 12, 2020, Cboe BZX Exchange, Inc. (the "Exchange") filed with the Securities and Exchange Commission (the "Commission") Amendment No. 1 to SR-CboeBZX-2019-107 in order to clarify certain points and add additional details. This Amendment No. 1 to SR-CboeBZX-2019-107 amends and replaces in its entirety the proposal as originally submitted on December 12, 2019. The Exchange submitted proposal SR-CboeBZX-2019-107 in order to adopt Rule 14.11(m) and to list and trade shares of the Fidelity Value ETF, Fidelity Growth ETF, and Fidelity Opportunistic ETF, each a series of the Fidelity Beach Street Trust, under such proposed Rule 14.11(m). In order to provide notice for public review of this Amendment No. 1, in addition to posting on the Exchange's public website, the Exchange is filing this comment letter with the Commission.

Sincerely,

Kyle Murray
Vice President, Associate General Counsel

OMB APPROVAL
OMB Number: 3235-0045 Estimated average burden hours per response.....38

Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2019 - * 107
Amendment No. (req. for Amendments *) 1

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) *
☐	☑	☐	☑	☐	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

19b-4(f)(1) 19b-4(f)(4)
19b-4(f)(2) 19b-4(f)(5)
19b-4(f)(3) 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐

Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

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 * Kyle Last Name * Murray

Title * VP, Associate General Counsel

E-mail * kmurray@cboe.com

Telephone * (913) 815-7121 Fax

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.

Date 02/12/2020

By Kyle Murray

(Name *)

(Title *)

VP, Associate General Counsel

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.

kmurray@cboe.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	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 * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, 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 Add Remove View 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 Add Remove View 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 Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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"),[1] and Rule 19b-4 thereunder,[2] Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to adopt Rule 14.11(m), Tracking Fund Shares, and to list and trade shares of the Fidelity Blue Chip Value ETF, Fidelity Blue Chip Growth ETF, and Fidelity New Millennium ETF (each a "Fund" and, collectively, the "Funds"), each a series of the Fidelity Beach Street Trust (the "Trust"), under such proposed Rule 14.11(m). The shares of each Fund are referred to herein as the "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 12, 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 Kyle Murray, Vice President, Associate General Counsel, (913) 815-7121.

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-2019-107 amends and replaces in its entirety the proposal as originally submitted on December 12, 2019. The Exchange

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

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

The Exchange proposes to add new Rule 14.11(m)[3] for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges, of Tracking Fund Shares, which are securities issued by an actively managed open-end management investment company.[4]

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[3] The Exchange notes that it is proposing new Rule 14.11(m) because it has also proposed a new Rule 14.11(k) and new Rule 14.11(l) under two separate proposals. See Securities Exchange Act Release Nos. 87062 (September 23, 2019), 84 FR 51193 (September 27, 2019) (SR-CboeBZX-2019-047) and 87560 (November 18, 2019), 84 FR 64607 (November 22, 2019) (CboeBZX-2019-097).

[4] The basis of this proposal are several applications for exemptive relief that were filed with the Commission and for which public notice was issued on November 14, 2019 and subsequent order granting certain exemptive relief to, among others, Fidelity Management & Research Company and FMR Co., Inc., Fidelity Beach Street Trust, and Fidelity Distributors Corporation (File No. 812-14364), issued on December 10, 2019 (the "Application," "Notice," and "Order," respectively, and, collectively, the "Exemptive Order"). See Investment Company Act Release Nos. 33683 and 33712. The Order specifically notes that "granting the requested exemptions is appropriate in and consistent with the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act." The Exchange notes that it also referred to the application for exemptive relief orders (collectively, with the Application, the "Applications") and notices thereof (collectively, with the Notice, the "Notices") for T. Rowe Price Associates, Inc. and T. Rowe Price Equity Series, Inc. (File No. 812-14214 and Investment Company Act Release Nos. 33685 and 33713), Natixis ETF Trust II, et al. (File No. 812-14870 and Investment Company Act Release Nos. 33684 and 33711), Blue Tractor ETF Trust and Blue Tractor Group, LLC (File No. 812-14625 and Investment Company Act Release Nos. 33682 and 33710), and Gabelli ETFs Trust, et al. (File No. 812-15036 and Investment Company Act Release Nos. 33681 and 33708). While there are certain differences between the applications, the Exchange believes that each would qualify as Tracking Fund Shares under proposed Rule 14.11(m).

Proposed Rule 14.11(m)

Proposed Rule 14.11(m)(3)(A) provides that the term "Tracking Fund Share" means a security that: (i) represents an interest in an investment company registered under the Investment Company Act of 1940 ("Investment Company") organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (ii) is issued in a specified aggregate minimum number in return for a deposit of specified Proxy Basket securities and/or a cash amount with a value equal to the next determined net asset value; (iii) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid specified Proxy Basket securities and/or a cash amount with a value equal to the next determined net asset value; and (iv) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

Proposed Rule 14.11(m)(1) provides that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Tracking Fund Shares that meet the criteria of this Rule.

Proposed Rule 14.11(m)(2) provides that this proposed Rule is applicable only to Tracking Fund Shares. Except to the extent inconsistent with this Rule, 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. Tracking Fund 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(m)(2)(A)-(C) provide that the Exchange will file separate

proposals under Section 19(b) of the Act before the listing of Tracking Fund Shares; and that transactions in Tracking Fund Shares will occur throughout the Exchange's trading hours; the minimum price variation for quoting and entry of orders in Tracking Fund Shares is $0.01.

Proposed Rule 14.11(m)(2)(D) provides that the Exchange will implement and maintain written surveillance procedures for Tracking Fund Shares and as part of these surveillance procedures, the Investment Company's investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Fund Portfolio of each series of Tracking Fund Shares.

Proposed Rule 14.11(m)(2)(E) provides that if the investment adviser to the Investment Company issuing Tracking Fund Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a "fire wall" between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to the Fund Portfolio and/or the Proxy Basket. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company's Fund Portfolio or has access to information regarding the Fund Portfolio or changes thereto or the Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund Portfolio or changes thereto or the Proxy Basket.

Proposed Rule 14.11(m)(2)(F) provides that a person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Fund Portfolio or changes thereto or the Proxy Basket, must be

subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Fund Portfolio or changes thereto or the Proxy Basket. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a "fire wall" between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Fund Portfolio or Proxy Basket.

Proposed Rule 14.11(m)(3)(B) provides that the term "Fund 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.

Proposed Rule 14.11(m)(3)(C) provides that the term "Reporting Authority" in respect of a particular series of Tracking 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 Tracking 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 Proxy Basket; the Fund Portfolio; the amount of any cash distribution to holders of Tracking Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Tracking Fund Shares. A series of Tracking Fund Shares may have more than one Reporting Authority, each having different functions.

Proposed Rule 14.11(m)(3)(D) provides that the term "Normal Market Conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (e.g., systems failure) causing

dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Proposed Rule 14.11(m)(3)(E) provides that the term "Proxy Basket" means the identities and quantities of the securities and other assets included in a basket that is designed to closely track the daily performance of the Fund Portfolio, as provided in the exemptive relief under the 1940 Act applicable to a series of Tracking Fund Shares. The Proxy Basket also serves as the creation and redemption basket for a series of Tracking Fund Shares. The Proxy Basket will be constructed as provided in the applicable exemptive relief under the 1940 Act and will be fully described in the proposal required under Rule 14.11(m)(2)(A).. The website for each series of Tracking Fund Shares shall disclose the following information regarding the Proxy Basket as required under this Rule 14.11(m), 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.

Proposed Rule 14.11(m)(4)(A) provides the initial listing criteria for a series of Tracking Fund Shares, which include the following: (A) each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following initial listing criteria: (i) for each series, the Exchange will establish a minimum number

of Tracking Fund Shares required to be outstanding at the time of commencement of trading on the Exchange; (ii) the Exchange will obtain a representation from the issuer of each series of Tracking Fund Shares that the net asset value per share for the series will be calculated daily and that each of the following will be made available to all market participants at the same time when disclosed: the net asset value, the Proxy Basket, and the Fund Portfolio; and (iii) all Tracking Fund Shares shall have a stated investment objective, which shall be adhered to under Normal Market Conditions.

Proposed Rule 14.11(m)(4)(B) provides that each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following continued listing criteria: (i)(a) the Proxy Basket will be disseminated at least once daily and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Proxy Basket 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 Proxy Basket; (ii)(a) the Fund Portfolio will at a minimum be publicly disclosed within at least 60 days following the end of every fiscal quarter and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Fund 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 Fund Portfolio; (iii) upon termination of an Investment Company, the Exchange requires that Tracking Fund Shares issued in connection with such entity be removed from listing on the Exchange; and (iv) voting rights shall be as set forth in the applicable Investment Company prospectus or Statement of Additional Information.

Additionally, proposed Rule 14.11(m)(4)(B)(iii) provides that the Exchange will consider the suspension of trading in and will commence delisting proceedings for a series of Tracking Fund Shares pursuant to Rule 14.12 under any of the following circumstances: (a) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Tracking Fund Shares, there are fewer than 50 beneficial holders of the series of Tracking Fund Shares for 30 or more consecutive trading days; (b) if either the Proxy Basket or Fund Portfolio is not made available to all market participants at the same time; (c) if the Investment Company issuing the Tracking Fund Shares has failed to file any filings required by the Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission or the Commission Staff under the 1940 Act to the Investment Company with respect to the series of Tracking Fund Shares; (d) if any of the requirements set forth in this rule are not continuously maintained; (e) if any of the applicable Continued Listing Representations for the issue of Tracking Fund Shares are not continuously met; or (f) 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(m)(5) provides that Neither the Exchange, the Reporting Authority, when the Exchange is acting in the capacity of a 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 portfolio value; the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Tracking

Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Tracking Fund Shares; net asset value; or other information relating to the purchase, redemption, or trading of Tracking Fund Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority when the Exchange is acting in the capacity of a 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, when the Exchange is acting in the capacity of a 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.

Proposed Rule 14.11(m)(6) provides that the provisions of this subparagraph apply only to series of Tracking Fund Shares that are the subject of an order by the Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 (the "1940 Act") and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform its members regarding application of these provisions of this subparagraph to a particular series of Tracking Fund Shares by means of an information circular prior to commencement of trading in such series. The Exchange requires that members provide to all purchasers of a series of Tracking Fund Shares a written description of the terms and characteristics of those securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser.

In addition, members shall include such a written description with any sales material relating to a series of Tracking Fund Shares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Tracking Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Tracking Fund Shares) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Tracking Fund Shares)." A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Tracking Fund Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule. Upon request of a customer, a member shall also provide a prospectus for the particular series of Tracking Fund Shares.

Proposed Rule 14.11(m)(7) provides that if the investment adviser to the Investment Company issuing Tracking Fund Shares 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 Investment Company portfolio and Proxy Basket. Personnel who make decisions on the Investment Company's portfolio composition and/or Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment

Company portfolio and/or Proxy Basket.

Policy Discussion – Proposed Rule 14.11(m)

The purpose of the structure of Tracking Fund Shares is to provide investors with the traditional benefits of ETFs[5] while protecting funds from the potential for front running or free riding of portfolio transactions, which could adversely impact the performance of a fund. While each series of Tracking Fund Shares will be actively managed and, to that extent, similar to Managed Fund Shares (as defined in Rule 14.11(i)), Tracking Fund Shares differ from Managed Fund Shares in one key way.[6] A series of Tracking Fund Shares will disclose the Proxy Basket on a daily basis which, as described above, is designed *to closely track* the performance of the holdings of the Investment Company, instead of the *actual holdings* of the Investment Company, as provided by a series of Managed Fund Shares.[7]

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5 For purposes of this filing, the term ETF will include only Portfolio Depositary Receipts as defined in Rule 14.11(b), Index Fund Shares as defined in Rule 14.11(c), and Managed Fund Shares as defined in Rule 14.11(i), along with the equivalent products defined in the rules of other national securities exchanges.

6 The Exchange notes that there are two additional differences between proposed Rule 14.11(m) and Rule 14.11(i): (i) proposed Rule 14.11(m) would require a rule filing under Section 19(b) prior to listing any product on the Exchange meaning that no series of Tracking Fund Shares could be listed on the Exchange pursuant to Rule 19b-4(e) and there are no proposed rules comparable to the quantitative portfolio holdings standards from Rule 14.11(i); and (ii) proposed Rule 14.11(m) would not require the dissemination of an intraday indicative value. The Exchange has submitted a proposal to eliminate the requirement for series of Managed Fund Shares and generally agrees with the Commission's sentiment that the intraday indicative value is not necessary to support the arbitrage mechanism. See SR-CboeBZX-2019-104 and Investment Company Act Release No. 10695 (October 24, 2019) (84 FR 57162).

7 Proposed Rule 14.11(m)(4)(B)(iii) will, however, require each series of Tracking Fund Shares to at a minimum disclose the entirety of its portfolio holdings within at least 60 days following the end of every fiscal quarter in accordance with

For the arbitrage mechanism for any ETF to function effectively, authorized participants, arbitrageurs, and other market participants (collectively, "Market Makers") need sufficient information to accurately value shares of a fund to transact in both the primary and secondary market. The Proxy Basket, constructed as provided in the applicable exemptive relief, is designed to closely track the daily performance of the Fund Portfolio.

Given the correlation between the Proxy Basket and the Fund Portfolio,[8] the Exchange believes that the Proxy Basket would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the shares of a series of Tracking Fund Shares diverge. If shares began trading at a discount to the Proxy

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normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act.

Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

8 As provided in the Notices, funds and their respective advisers will take remedial actions as necessary if the funds do not function as anticipated. For the first three years after a launch, a fund will establish certain thresholds for its level of tracking error, premiums/discounts, and spreads, so that, upon the fund's crossing a threshold, the adviser will promptly call a meeting of the fund's board of directors and will present the board or committee with recommendations for appropriate remedial measures. The board would then consider the continuing viability of the fund, whether shareholders are being harmed, and what, if any, action would be appropriate. Specifically, the Applications and Notices provide that such a meeting would occur: (1) if the tracking error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or bid/ask price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%.

Basket, an authorized participant could purchase the shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit,[9] redeem them in exchange for a redemption basket reflecting the Net Asset Value ("NAV") per share of the Fund Portfolio. The purchases of shares would reduce the supply of shares in the market, and thus tend to drive up the shares' market price closer to the fund's NAV. Alternatively, if shares are trading at a premium, the transactions in the arbitrage process are reversed. Market Makers also can engage in arbitrage without using the creation or redemption processes. For example, if a fund is trading at a premium to the Proxy Basket, Market Makers may sell shares short and take a long position in the Proxy Basket securities, wait for the trading prices to move toward parity, and then close out the positions in both the shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a Market Maker could buy shares and take a short position in the Proxy Basket securities in an attempt to profit when shares are trading at a discount to the Proxy Basket.

Overall, the Exchange believes that the arbitrage process would operate similarly to the arbitrage process in place today for existing ETFs that use in-kind baskets for creations and redemptions that do not reflect the ETF's complete holdings but nonetheless produce performance that is highly correlated to the performance of the ETF's actual portfolio. The Exchange has observed highly efficient trading of ETFs that invest in markets where security values are not fully known at the time of ETF trading, and where a perfect hedge is not possible, such as international equity and fixed-income

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[9] Tracking Fund Shares will be purchased or redeemed only in large aggregations, or "creation units," and the Proxy Basket will constitute the names and quantities of instruments for both purchases and redemptions of Creation Units.

ETFs. While the ability to value and hedge many of these existing ETFs in the market may be limited, such ETFs have generally maintained an effective arbitrage mechanism and traded efficiently.

As provided in the Notice, the Commission believes that an arbitrage mechanism based largely on the combination of a daily disclosed Proxy Basket and at a minimum quarterly disclosure of the Fund Portfolio can work in an efficient manner to maintain a fund's secondary market prices close to its NAV.[10] Consistent with the Commission's view, the Exchange believes that because the arbitrage mechanism for Tracking Fund Shares will be sufficient to keep secondary market prices in line with NAV and because the proposed rules are except as described above nearly identical to the generic listing standards for Managed Fund Shares, proposed Rule 14.11(m) is consistent with the Act.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a

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[10] See Notice at 17. The Commission also notes that as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.

daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended

While not providing daily disclosure of the Fund Portfolio could open the door to potential information leakage and misuse of material non-public information, the Exchange believes that proposed Rules 14.11(m)(2)(E) and (F) provide sufficient safeguards to prevent such leakage and misuse of information. The Exchange believes that these proposed rules are designed to prevent fraudulent and manipulative acts and practices related to the listing and trading of Tracking Fund Shares because they provide meaningful requirements about both the data that will be made publicly available about the Shares as well as the information that will only be available to certain parties and the controls on such information. Specifically, the Exchange believes that the requirements related to information protection enumerated under proposed Rule 14.11(m)(2)(F) will act as a strong safeguard against any misuse and improper dissemination of information related to a Fund Portfolio, the Proxy Basket, or changes thereto. The requirement that any person or entity implement procedures to prevent the use and dissemination of material nonpublic information regarding the Fund Portfolio or Proxy Basket will act to prevent any individual or entity from sharing such information externally and the internal "fire wall" requirements applicable where an entity is a registered broker-dealer or affiliated with a broker-dealer will act to make sure that no entity will be able to misuse

the data for their own purposes. As such, the Exchange believes that this proposal is designed to prevent fraudulent and manipulative acts and practices.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Tracking Fund Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of Tracking Fund Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products. The Exchange will require the issuer of each series of Tracking Fund Shares listed on the Exchange to represent to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted in proposed Rule 14.11(m)(2)(D), the Investment Company's investment adviser will upon request make available to the Exchange and/or FINRA, on behalf of the Exchange, the daily portfolio holdings of each series of Managed Portfolio Shares. The Exchange believes that this is appropriate because it will provide the Exchange or FINRA, on behalf of the Exchange, with access to the daily Fund Portfolio of any series of Tracking Fund Shares upon request on an as needed basis. The Exchange believes that the ability to access the information on an as needed basis will provide it

with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Tracking Fund Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of the shares.

Trading Halts

As described above, proposed Rule 14.11(m)(4)(B)(iv) provides that if the Exchange becomes aware that one of the following is not being made available to all market participants at the same time, respectively: the net asset value, the Proxy Basket, or the Fund Portfolio with respect to a series of Tracking Fund Shares; then the Exchange will halt trading in such series until such time as the net asset value, the Proxy Basket, or the Fund Portfolio is available to all market participants, as applicable.

Availability of Information

As noted above, Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing

price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line.

Trading Rules

The Exchange deems Tracking Fund Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. As provided in proposed Rule 14.11(m)(2)(C), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01.

Information Circular

Prior to the commencement of trading of a series of Tracking Fund Shares, the Exchange will inform its members in an Information Circular ("Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Circular will discuss the following: (1) the procedures for purchases and redemptions of Shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Proxy Basket is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) trading information; and (6) that the Fund Portfolio of the Shares are not disclosed on a daily basis.

In addition, the Circular will reference that Funds are subject to various fees and expenses described in the Registration Statement. The Circular will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules

under the Act. The Circular will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

The Shares

The Shares are offered by the Trust, which is organized as a business trust under the laws of The Commonwealth of Massachusetts. The Trust is registered with the Commission as an open-end investment company and will file a registration statement on behalf of the Funds on Form N-1A ("Registration Statement") with the Commission.[11] Fidelity Management & Research Company or FMR Co., Inc. (the "Adviser") will be the investment adviser to the Funds. The Adviser is not registered as a broker-dealer, but is affiliated with numerous broker-dealers. The Adviser represents that a fire wall exists and will be maintained between the respective personnel at the Adviser and affiliated broker-dealers with respect to access to information concerning the composition and/or changes to each Fund's portfolio and Proxy Basket. Personnel who make decisions on a Fund's portfolio composition and/or Proxy Basket shall be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio and/or Proxy Basket. The Funds' sub-advisers, FMR Investment Management (UK) Limited, Fidelity Management & Research (Hong Kong) Limited, and Fidelity Management & Research (Japan) Limited (each a "Sub-Adviser" and, collectively, the "Sub-Advisers"), are not registered as a broker-dealer but are affiliated with numerous broker-dealers. Sub-Adviser personnel who make decisions regarding a Fund's portfolio

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[11] The Trust intends to file a post-effective amendment to the Registration Statement in the near future. The descriptions of the Funds and the Shares contained herein are based, in part, on information that will be included in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1).

and/or Proxy Basket are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio and/or Proxy Basket. In the event that (a) the Adviser or a Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer; or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes newly affiliated with a broker-dealer; it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and/or Proxy Basket, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio and/or Proxy Basket. Each Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

The Shares will conform to the initial and continued listing criteria under Rule 14.11(l) as well as all terms in the Exemptive Order. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A-3 under the Act.[12] A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of each Fund that the NAV per share of each Fund will be calculated daily and will be made available to all market participants at the same time.

Fidelity Blue Chip Value ETF

Notwithstanding the following description, the Fund's holdings will conform to the permissible investments as set forth in the Application and Order. The Fund seeks

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[12] See 17 CFR 240.10A-3.

long-term growth of capital. In order to achieve its investment objective, under Normal Market Conditions, the Fund will invest at least 80% of its assets in: (i) blue chip companies (companies whose stock is included in the S&P 500® Index or the Dow Jones Industrial Average℠ (DJIA℠), and companies with market capitalizations of at least $1 billion if not included in either index); (ii) companies that the Adviser believes are undervalued in the marketplace in relation to factors such as assets, sales, earnings, growth potential, or cash flow, or in relation to securities of other companies in the same industry (stocks of these companies are often called "value" stocks) listed on a U.S. national securities exchange or a foreign exchange that trade on such exchange contemporaneously with the Fund's Shares; and (ii) cash and Cash Equivalents.[13]

The Fund may also invest the Fund's assets in other securities and financial instruments, as summarized below. Under Normal Market Conditions, the Fund may invest up to 5% of its assets in U.S. exchange-traded index futures. The Fund may invest in ETFs to facilitate creations and redemptions using the Proxy Basket, as defined

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[13] For purposes of this proposal and as defined in Rule 14.11(i)(4)(C)(iii), Cash Equivalents are short-term instruments with maturities of less than three months that are: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

above.[14] Except as described above, the Fund will not invest in derivative instruments or enter into short positions.[15]

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares.

Fidelity Blue Chip Growth ETF

Notwithstanding the following description, the Fund's holdings will conform to the permissible investments as set forth in the Application and Order. The Fund seeks long-term growth of capital. In order to achieve its investment objective, under Normal Market Conditions, the Fund will invest at least 80% of its assets in: (i) blue chip companies (companies whose stock is included in the S&P 500® Index or the Dow Jones Industrial Average℠ (DJIA℠), and companies with market capitalizations of at least $1 billion if not included in either index) (ii) companies that the Adviser believes have

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14 Given that the Tracking Basket would normally serve as a Fund's Creation Basket, a Fund may acquire Representative ETFs to create or redeem Shares. A Fund would not hold Representative ETFs for investment purposes. While the Adviser will not hold Representative ETFs in a Fund's portfolio for investment purposes, Representative ETFs will nonetheless convey accurate information about the types of instruments in which the Fund invests given that Representative ETFs will themselves invest in the types of securities included in the Fund's portfolio.

15 The Adviser notes that the Fund may by virtue of its holdings be issued warrants and rights. The Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders.

above-average growth potential (stocks of these companies are often called "growth" stocks) that are listed on a U.S. national securities exchange or a foreign exchange that trade on such exchange contemporaneously with the Fund's Shares; and (iii) cash and Cash Equivalents.

The Fund may also invest the Fund's assets in other securities and financial instruments, as summarized below. Under Normal Market Conditions, the Fund may invest up to 5% of its assets in U.S. exchange-traded index futures The Fund may invest in ETFs to facilitate creations and redemptions using the Proxy Basket, as defined above. Except as described above, the Fund will not invest in derivative instruments or enter into short positions.[16]

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares.

Fidelity New Millennium ETF

Notwithstanding the following description, the Fund's holdings will conform to the permissible investments as set forth in the Application and Order. The Fund seeks long-term growth of capital. In order to achieve its investment objective, under Normal

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[16] The Adviser notes that the Fund may by virtue of its holdings be issued warrants and rights. The Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders.

Market Conditions, the Fund will primarily invest in (i) companies that may benefit from opportunities created by long-term changes in the marketplace by examining technological advances, product innovation, economic plans, demographics, social attitudes, and other factors, which can lead to investments in small and medium-sized companies; (ii) both "growth" and "value" stocks based on fundamental analysis of factors such as each issuer's financial condition and industry position, as well as market and economic conditions that are listed on a U.S. national securities exchange or a foreign exchange that trade on such exchange contemporaneously with the Fund's Shares; and (iii) cash and Cash Equivalents.

The Fund may also invest the Fund's assets in other securities and financial instruments, as summarized below. Under Normal Market Conditions, the Fund may invest up to 5% of its assets in U.S. exchange-traded index futures. The Fund may invest in ETFs to facilitate creations and redemptions using the Proxy Basket, as defined above. Except as described above, the Fund will not invest in derivative instruments or enter into short positions.[17]

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and

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[17] The Adviser notes that the Fund may by virtue of its holdings be issued warrants and rights. The Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders.

concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares.

Proxy Basket for the Proposed Funds

For the Funds, the Proxy Basket will consist of a combination of the Fund's recently disclosed portfolio holdings and representative ETFs. ETFs selected for inclusion in the Proxy Basket will be consistent with the Fund's objective and selected based on certain criteria, including, but not limited to, liquidity, assets under management, holding limits and compliance considerations. Representative ETFs can provide a useful mechanism to reflect a Fund's holdings' exposures within the Proxy Basket without revealing a Fund's exact positions.[18] The Exchange notes that each Fund's NAV will form the basis for creations and redemptions for the Funds and creations and redemptions will work in a manner substantively identical to that of series of Managed Fund Shares. The Adviser expects that the Shares of the Funds will generally be created and redeemed in-kind, with limited exceptions. The names and quantities of the instruments that constitute the basket of securities for creations and redemptions will be the same as a Fund's Proxy Basket, except to the extent purchases and redemptions are made entirely or in part on a cash basis. In the event that the value of the Proxy Basket is not the same as a Fund's NAV, the creation and redemption baskets will consist of the

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[18] The set of ETFs that are "representative" to be used in the Proxy Basket will depend on certain factors, including the Fund's investment objective, past holdings, and benchmark, and may change from time to time. For example, a U.S. diversified fund benchmarked to a diversified U.S. index would use liquid U.S. exchange-traded ETFs to capture size (large, mid or small capitalization), style (growth or value) and/or sector exposures in the Fund's portfolio. Leveraged and inverse ETFs will not be included in the Proxy Basket. ETFs may constitute no more than 50% of the Proxy Basket's assets.

securities included in the Proxy Basket plus or minus an amount of cash equal to the difference between the NAV and the value of the Proxy Basket, as further described below.

The Proxy Basket will be constructed utilizing a covariance matrix based on an optimization process to minimize deviations in the return of the Proxy Basket relative to the Fund. The proprietary optimization process mathematically seeks to minimize three key parameters that the Adviser believes are important to the effectiveness of the Proxy Basket as a hedge: tracking error (standard deviation of return differentials between the Proxy Basket and the Fund), turnover cost, and basket creation cost.[19] Typically, the Proxy Basket is expected to be rebalanced on schedule with the public disclosure of the Fund's holdings; however, a new optimized Proxy Basket may be generated as frequently as daily, and therefore, rebalancing may occur more frequently at the Adviser's discretion. In determining whether to rebalance a new optimized Proxy Basket, the Adviser will consider various factors, including liquidity of the securities in the Proxy Basket, tracking error, and the cost to create and trade the Proxy Basket.[20] For example, if the Adviser determines that a new Proxy Basket would reduce the variability of return

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[19] Tracking error measures the deviations between the Proxy Basket and Fund. Turnover cost and basket creation cost are measures of the cost to create and maintain the Proxy Basket as a hedge.

[20] The Adviser uses a trading cost model to develop estimates of costs to trade a new Proxy Basket. There are essentially two elements to this cost: (1) the cost to purchase securities constituting the Proxy Basket, *i.e.,* the cost to put on the hedge for the Authorized Participant, and (2) the cost of any adjustments that need to be made to the composition of the Proxy Basket, *i.e.*, the cost to the Authorized Participant to change or maintain the hedge position. The inclusion of the trading cost model in the optimization process is intended to result in a Proxy Basket that is cost effective and liquid without compromising its tracking ability.

differentials between the Proxy Basket and the Fund when balanced against the cost to trade the new Proxy Basket, rebalancing may be appropriate. The Adviser will periodically review the Proxy Basket parameters and Proxy Basket performance and process.

As noted above, each Fund will also disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio, at a minimum within at least 60 days following the end of every fiscal quarter. As described above, the Exchange notes that the concept of the Proxy Basket employed under this structure is designed to provide investors with the traditional benefits of ETFs while protecting the Funds from the potential for front running or free riding of portfolio transactions, which could adversely impact the performance of a Fund.

Policy Discussion – Proposed Funds

As discussed above, each Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares and, as such, any such concerns related to the portfolio are mitigated.

Separately and in addition to the rationale supporting the arbitrage mechanism for Tracking Fund Shares more broadly above, the Exchange also believes that the particular instruments that may be included in each Fund's portfolio and Proxy Basket do not raise any concerns related to the Proxy Baskets being able to closely track the NAV of the

Funds because such instruments include only instruments that trade on an exchange contemporaneously with the Shares. In addition, a Fund's Proxy Basket will be optimized so that it reliably and consistently correlates to the performance of the Fund. The Notice specifically states that "in order to facilitate arbitrage, each Fund's portfolio and Tracking Basket will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares. Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Tracking Basket for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's Shares."[21] The Exchange and Adviser agree with the Commission's conclusion.

The Adviser anticipates that the returns between a Fund and its respective Proxy Basket will have a consistent relationship and that the deviation in the returns between a Fund and its Proxy Basket will be sufficiently small such that the Proxy Basket will provide Market Makers with a reliable hedging vehicle that they can use to effectuate low-risk arbitrage trades in Fund Shares. The Exchange believes that the disclosures provided by the Funds will allow Market Makers to understand the relationship between

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[21] The Exchange notes that the instruments enumerated herein are consistent with the investable universe contemplated in the Notice. Specifically, the Notice provides that "Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents…All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an "Exchange" is a national securities exchange as defined in section 2(a)(26) of the [1940] Act." See Notice at 10.

the performance of a Fund and its Proxy Basket. Market Makers will be able to estimate the value of and hedge positions in a Fund's Shares, which the Exchange believes will facilitate the arbitrage process and help ensure that the Fund's Shares normally will trade at market prices close to their NAV. The Exchange also believes that competitive market making, where traders are looking to take advantage of differences in bid-ask spread, will aid in keeping spreads tight.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended.

Additional Information

The Exchange represents that the Shares of the Funds will continue to comply with all other proposed requirements applicable to Tracking Fund Shares, including the dissemination of key information such as the Proxy Basket, the Fund Portfolio, and Net Asset Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in the proposed Exchange rules applicable to Tracking Fund Shares and the orders approving such rules.

Price information for the exchange-listed instruments held by the Funds, including both U.S. and non-U.S. listed equity securities and U.S. exchange-listed futures will be available through major market data vendors or securities exchanges listing and trading such securities. Moreover, U.S.-listed equity securities held by the Funds will trade on markets that are a member of Intermarket Surveillance Group ("ISG") or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[22] All futures contracts that the Funds may invest in will be traded on a U.S. futures exchange. The Exchange or the Financial Industry Regulatory Authority ("FINRA"), on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, underlying U.S. exchange-listed equity securities, and U.S. exchange-listed futures with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding

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[22] For a list of the current members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

trading such instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying equity securities, and U.S. exchange-listed futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

b. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[23] in general and Section 6(b)(5) of the Act[24] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

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[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(5).

principles of trade, to foster cooperation and coordination with persons engaged in 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 Exchange believes that proposed Rule 14.11(m) is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading of Tracking Fund Shares provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 14.11(m)(4)(A) provides the initial listing criteria for a series of Tracking Fund Shares, which include the following: (A) each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following initial listing criteria: (i) for each series, the Exchange will establish a minimum number of Tracking Fund Shares required to be outstanding at the time of commencement of trading on the Exchange; (ii) the Exchange will obtain a representation from the issuer of each series of Tracking Fund Shares that the net asset value per share for the series will be calculated daily and that each of the following will be made available to all market participants at the same time when disclosed: the net asset value, the Proxy Basket, and the Fund Portfolio.

Proposed Rule 14.11(m)(4)(B) provides that each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following continued listing criteria: (i)(a) the Proxy Basket will be disseminated at least once daily and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Proxy Basket 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 Proxy Basket; (ii)(a) the Fund Portfolio will at a minimum be publicly disclosed within at least 60 days following the end of every fiscal quarter and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Fund 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 Fund Portfolio; (iii) upon termination of an Investment Company, the Exchange requires that Tracking Fund Shares issued in connection with such entity be removed from listing on the Exchange; and (iv) voting rights shall be as set forth in the applicable Investment Company prospectus or Statement of Additional Information.

Additionally, proposed Rule 14.11(m)(4)(B)(iii) provides that the Exchange will consider the suspension of trading in and will commence delisting proceedings for a series of Tracking Fund Shares pursuant to Rule 14.12 under any of the following circumstances: (a) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Tracking Fund Shares, there are fewer than 50 beneficial holders of the series of Tracking Fund Shares for 30 or more consecutive trading days; (b) if either the Proxy Basket or Fund Portfolio is not made available to all market participants at the same time; (c) if the Investment Company issuing the Tracking Fund Shares has failed to file any filings required by the Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission to the Investment Company with respect to the series of Tracking Fund Shares; (d) if any of the requirements set forth in this rule are not continuously maintained; (e) if any of the

applicable Continued Listing Representations for the issue of Tracking Fund Shares are not continuously met; or (f) 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(m)(4)(B)(iv) provides that if the Exchange becomes aware that one of the following is not being made available to all market participants at the same time: the net asset value, the Proxy Basket, or the Fund Portfolio with respect to a series of Tracking Fund Shares; then the Exchange will halt trading in such series until such time as the NAV, the Proxy Basket, or the Fund Portfolio is available to all market participants, as applicable.

Proposed Rule 14.11(m)(7) provides that if the investment adviser to the Investment Company issuing Tracking Fund Shares 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 Investment Company portfolio and Proxy Basket. Personnel who make decisions on the Investment Company's portfolio composition and/or Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio and/or Proxy Basket.

The Exchange believes that these proposed rules are designed to prevent fraudulent and manipulative acts and practices related to the listing and trading of Tracking Fund Shares because they provide meaningful requirements about both the data that will be made publicly available about the Shares (the Proxy Basket) as well as the information that will only be available to certain parties and the controls on such

information. Specifically, the Exchange believes that the requirements related to information protection enumerated under proposed Rule 14.11(m)(7) will act as a strong safeguard against any misuse and improper dissemination of information related to the securities included in or changes made to the Fund Portfolio and/or the Proxy Basket. As such, the Exchange believes that this proposal is designed to prevent fraudulent and manipulative acts and practices.

As noted above, the purpose of the structure of Tracking Fund Shares is to provide investors with the traditional benefits of ETFs while protecting funds from the potential for front running or free riding of portfolio transactions, which could adversely impact the performance of a fund. While each series of Tracking Fund Shares will be actively managed and, to that extent, similar to Managed Fund Shares (as defined in Rule 14.11(i)), Tracking Fund Shares differ from Managed Fund Shares in one key way.[25] A series of Tracking Fund Shares will disclose the Proxy Basket on a daily basis which, as described above, is designed *to closely track* the performance of the holdings of the

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[25] The Exchange notes that there are two additional substantive differences between proposed Rule 14.11(m) and Rule 14.11(i): (i) proposed Rule 14.11(m) would require a rule filing under Section 19(b) prior to listing any product on the Exchange meaning that no series of Tracking Fund Shares could be listed on the Exchange pursuant to Rule 19b-4(e) and there are no proposed rules comparable to the quantitative portfolio holdings standards from Rule 14.11(i); and (ii) proposed Rule 14.11(m) would not require the dissemination of an intraday indicative value. The Exchange has submitted a proposal to eliminate the requirement for series of Managed Fund Shares and generally agrees with the Commission's sentiment that the intraday indicative value is not necessary to support the arbitrage mechanism. See SR-CboeBZX-2019-104 and Investment Company Act Release No. 10695 (October 24, 2019) (84 FR 57162).

Investment Company, instead of the *actual holdings* of the Investment Company, as provided by a series of Managed Fund Shares.[26]

For the arbitrage mechanism for any ETF to function effectively, Market Makers need sufficient information to accurately value shares of a fund to transact in both the primary and secondary market. The Proxy Basket, constructed as provided in the applicable exemptive relief, is designed to closely track the daily performance of the holdings of a series of Tracking Fund Shares.

Given the correlation between the Proxy Basket and the Fund Portfolio,[27] the Exchange believes that the Proxy Basket would serve as a pricing signal to identify

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[26] Proposed Rule 14.11(m)(4)(B)(ii) will, however, require each series of Tracking Fund Shares to at a minimum disclose the entirety of its portfolio holdings within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act.

Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

[27] As provided in the Notices, funds and their respective advisers will take remedial actions as necessary if the funds do not function as anticipated. For the first three years after a launch, a fund will establish certain thresholds for its level of tracking error, premiums/discounts, and spreads, so that, upon the fund's crossing a threshold, the adviser will promptly call a meeting of the fund's board of directors and will present the board or committee with recommendations for appropriate remedial measures. The board would then consider the continuing viability of the fund, whether shareholders are being harmed, and what, if any, action would be appropriate. Specifically, the Applications and Notices provide that such a meeting would occur: (1) if the tracking error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference

arbitrage opportunities when its value and the secondary market price of the shares of a series of Tracking Fund Shares diverge. If shares began trading at a discount to the Proxy Basket, an authorized participant could purchase the shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit,[28] redeem them in exchange for a redemption basket reflecting the NAV per share of the fund's portfolio holdings. The purchases of shares would reduce the supply of shares in the market, and thus tend to drive up the shares' market price closer to the fund's NAV. Alternatively, if shares are trading at a premium, the transactions in the arbitrage process are reversed. Market Makers also can engage in arbitrage without using the creation or redemption processes. For example, if a fund is trading at a premium to the Proxy Basket, Market Makers may sell shares short and take a long position in the Proxy Basket securities, wait for the trading prices to move toward parity, and then close out the positions in both the shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a Market Maker could buy shares and take a short position in the Proxy Basket securities in an attempt to profit when shares are trading at a discount to the Proxy Basket.

Overall, the Exchange believes that the arbitrage process would operate similarly to the arbitrage process in place today for existing ETFs that use in-kind baskets for creations and redemptions that do not reflect the ETF's complete holdings but

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between either the market closing price or bid/ask price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%.

[28] Tracking Fund Shares will be purchased or redeemed only in large aggregations, or "creation units," and the Proxy Basket will constitute the names and quantities of instruments for both purchases and redemptions of Creation Units.

nonetheless produce performance that is highly correlated to the performance of the ETF's actual portfolio. The Exchange has observed highly efficient trading of ETFs that invest in markets where security values are not fully known at the time of ETF trading, and where a perfect hedge is not possible, such as international equity and fixed-income ETFs. While the ability to value and hedge many of these existing ETFs in the market may be limited, such ETFs have generally maintained an effective arbitrage mechanism and traded efficiently.

As provided in the Notice, the Commission believes that an arbitrage mechanism based largely on the combination of a daily disclosed Proxy Basket and at a minimum quarterly disclosure of the Fund Portfolio can work in an efficient manner to maintain a fund's secondary market prices close to its NAV.[29] Consistent with the Commission's view, the Exchange believes that the arbitrage mechanism for Tracking Fund Shares will be sufficient to keep secondary market prices in line with NAV. This, combined with the fact that the proposed rules are, except as described above, nearly identical to the generic listing standards for Managed Fund Shares, leads the Exchange to believe that the proposed Rule 14.11(m) is consistent with the Act.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose

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[29] See Fidelity Notice at 17. The Commission also notes that as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.

the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Tracking Fund Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of Tracking Fund Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products. The Exchange will require the issuer of each series of Tracking Fund Shares listed on the Exchange to represent to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public

information by its employees.

As noted in proposed Rule 14.11(m)(2)(D), the Investment Company's investment adviser will upon request make available to the Exchange and/or FINRA, on behalf of the Exchange, the daily portfolio holdings of each series of Managed Portfolio Shares. The Exchange believes that this is appropriate because it will provide the Exchange or FINRA, on behalf of the Exchange, with access to the daily Fund Portfolio of any series of Tracking Fund Shares upon request on an as needed basis. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Tracking Fund Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of the shares.

As noted above, Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing

price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line. The Exchange deems Tracking Fund Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. As provided in proposed Rule 14.11(m)(2)(C), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01.

The Funds

As discussed above, each Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares and, as such, any such concerns related to the portfolio are mitigated.

Separately and in addition to the rationale supporting the arbitrage mechanism for Tracking Fund Shares more broadly above, the Exchange also believes that the particular instruments that may be included in each Fund's portfolio and Proxy Basket do not raise any concerns related to the Proxy Baskets being able to closely track the NAV of the Funds because such instruments include only instruments that trade on an exchange contemporaneously with the Shares. In addition, a Fund's Proxy Basket will be optimized so that it reliably and consistently correlates to the performance of the Fund. The Notice specifically states that "in order to facilitate arbitrage, each Fund's portfolio and Tracking

Basket, which is the Proxy Basket under proposed Rule 14.11(m)(3)(E) for the purpose of the Funds, will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares. Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Tracking Basket for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's Shares."[30] The Exchange and Adviser agree with the Commission's conclusion.

The Adviser anticipates that the returns between a Fund and its respective Proxy Basket will have a consistent relationship and that the deviation in the returns between a Fund and its Proxy Basket will be sufficiently small such that the Proxy Basket will provide Market Makers with a reliable hedging vehicle that they can use to effectuate low-risk arbitrage trades in Fund Shares. The Exchange believes that the disclosures provided by the Funds will allow Market Makers to understand the relationship between the performance of a Fund and its Proxy Basket. Market Makers will be able to estimate the value of and hedge positions in a Fund's Shares, which the Exchange believes will facilitate the arbitrage process and help ensure that the Fund's Shares normally will trade

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30 The Exchange notes that the instruments enumerated herein are consistent with the investable universe contemplated in the Notice. Specifically, the Notice provides that "Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents…All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an "Exchange" is a national securities exchange as defined in section 2(a)(26) of the [1940] Act." See Notice at 10.

at market prices close to their NAV. The Exchange also believes that competitive market making, where traders are looking to take advantage of differences in bid-ask spread, will aid in keeping spreads tight.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended.

The Exchange represents that the Shares of the Funds will continue to comply with all other proposed requirements applicable to Tracking Fund Shares, which also generally correspond to the requirements for Managed Fund Shares, including the dissemination of key information such as the Proxy Basket, the Fund Portfolio, and Net Asset Value, suspension of trading or removal, trading halts, surveillance, minimum price

variation for quoting and order entry, the information circular, and firewalls as set forth in the proposed Exchange rules applicable to Tracking Fund Shares and the orders approving such rules. Moreover, U.S.-listed equity securities held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[31] All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

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.

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[31] For a list of the current members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

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 purpose of the Act. Rather, the Exchange notes that the proposed rule change will facilitate the listing of a new type of actively-managed exchange-traded products, thus enhancing competition among both market participants and listing venues, to the benefit of investors and the marketplace.

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

The Exchange has neither solicited nor received written 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)

Not applicable.

8. Proposed Rule Change Based on Rule 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 the Proposed Rule Change for publication in

the Federal Register.

Exhibit 2 – 5: Not applicable.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CboeBZX-2019-107 Amendment No. 1]

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Adopt Rule 14.11(m), Tracking Fund Shares, and to List and Trade Shares of the Fidelity Blue Chip Value ETF, Fidelity Blue Chip Growth ETF, and Fidelity New Millennium ETF, each a series of the Fidelity Beach Street Trust, Under Such Proposed Rule 14.11(m)

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

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

The Exchange proposes a rule change to adopt Rule 14.11(m), Tracking Fund Shares, and to list and trade shares of the Fidelity Blue Chip Value ETF, Fidelity Blue Chip Growth ETF, and Fidelity New Millennium ETF (each a "Fund" and, collectively, the "Funds"), each a series of the Fidelity Beach Street Trust (the "Trust"), under such proposed Rule 14.11(m). The shares of each Fund are referred to herein as the "Shares."

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1 15 U.S.C. 78s(b)(1).

2 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/), 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

This Amendment No. 1 to SR-CboeBZX-2019-107 amends and replaces in its entirety the proposal as originally submitted on December 12, 2019. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to add new Rule 14.11(m)[3] for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges, of Tracking Fund Shares, which are securities issued by an actively managed open-end management

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[3] The Exchange notes that it is proposing new Rule 14.11(m) because it has also proposed a new Rule 14.11(k) and new Rule 14.11(l) under two separate proposals. See Securities Exchange Act Release Nos. 87062 (September 23, 2019), 84 FR 51193 (September 27, 2019) (SR-CboeBZX-2019-047) and 87560 (November 18, 2019), 84 FR 64607 (November 22, 2019) (CboeBZX-2019-097).

investment company.[4]

Proposed Rule 14.11(m)

Proposed Rule 14.11(m)(3)(A) provides that the term "Tracking Fund Share" means a security that: (i) represents an interest in an investment company registered under the Investment Company Act of 1940 ("Investment Company") organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (ii) is issued in a specified aggregate minimum number in return for a deposit of specified Proxy Basket securities and/or a

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[4] The basis of this proposal are several applications for exemptive relief that were filed with the Commission and for which public notice was issued on November 14, 2019 and subsequent order granting certain exemptive relief to, among others, Fidelity Management & Research Company and FMR Co., Inc., Fidelity Beach Street Trust, and Fidelity Distributors Corporation (File No. 812-14364), issued on December 10, 2019 (the "Application," "Notice," and "Order," respectively, and, collectively, the "Exemptive Order"). See Investment Company Act Release Nos. 33683 and 33712. The Order specifically notes that "granting the requested exemptions is appropriate in and consistent with the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act." The Exchange notes that it also referred to the application for exemptive relief orders (collectively, with the Application, the "Applications") and notices thereof (collectively, with the Notice, the "Notices") for T. Rowe Price Associates, Inc. and T. Rowe Price Equity Series, Inc. (File No. 812-14214 and Investment Company Act Release Nos. 33685 and 33713), Natixis ETF Trust II, et al. (File No. 812-14870 and Investment Company Act Release Nos. 33684 and 33711), Blue Tractor ETF Trust and Blue Tractor Group, LLC (File No. 812-14625 and Investment Company Act Release Nos. 33682 and 33710), and Gabelli ETFs Trust, et al. (File No. 812-15036 and Investment Company Act Release Nos. 33681 and 33708). While there are certain differences between the applications, the Exchange believes that each would qualify as Tracking Fund Shares under proposed Rule 14.11(m).

cash amount with a value equal to the next determined net asset value; (iii) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid specified Proxy Basket securities and/or a cash amount with a value equal to the next determined net asset value; and (iv) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

Proposed Rule 14.11(m)(1) provides that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Tracking Fund Shares that meet the criteria of this Rule.

Proposed Rule 14.11(m)(2) provides that this proposed Rule is applicable only to Tracking Fund Shares. Except to the extent inconsistent with this Rule, 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. Tracking Fund 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(m)(2)(A)-(C) provide that the Exchange will file separate proposals under Section 19(b) of the Act before the listing of Tracking Fund Shares; and that transactions in Tracking Fund Shares will occur throughout the Exchange's trading hours; the minimum price variation for quoting and entry of orders in Tracking Fund Shares is $0.01.

Proposed Rule 14.11(m)(2)(D) provides that the Exchange will implement and maintain written surveillance procedures for Tracking Fund Shares and as part of these surveillance procedures, the Investment Company's investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange

or FINRA the daily Fund Portfolio of each series of Tracking Fund Shares.

Proposed Rule 14.11(m)(2)(E) provides that if the investment adviser to the Investment Company issuing Tracking Fund Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a "fire wall" between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to the Fund Portfolio and/or the Proxy Basket. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company's Fund Portfolio or has access to information regarding the Fund Portfolio or changes thereto or the Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund Portfolio or changes thereto or the Proxy Basket.

Proposed Rule 14.11(m)(2)(F) provides that a person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Fund Portfolio or changes thereto or the Proxy Basket, must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Fund Portfolio or changes thereto or the Proxy Basket. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a “fire wall” between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Fund Portfolio or Proxy Basket.

Proposed Rule 14.11(m)(3)(B) provides that the term “Fund 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.

Proposed Rule 14.11(m)(3)(C) provides that the term "Reporting Authority" in respect of a particular series of Tracking 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 Tracking 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 Proxy Basket; the Fund Portfolio; the amount of any cash distribution to holders of Tracking Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Tracking Fund Shares. A series of Tracking Fund Shares may have more than one Reporting Authority, each having different functions.

Proposed Rule 14.11(m)(3)(D) provides that the term "Normal Market Conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Proposed Rule 14.11(m)(3)(E) provides that the term "Proxy Basket" means the identities and quantities of the securities and other assets included in a basket that is designed to closely track the daily performance of the Fund Portfolio, as provided in the exemptive relief under the 1940 Act applicable to a series of Tracking Fund Shares. The Proxy Basket also serves as the creation and redemption basket for a series of Tracking

Fund Shares. The Proxy Basket will be constructed as provided in the applicable exemptive relief under the 1940 Act and will be fully described in the proposal required under Rule 14.11(m)(2)(A).. The website for each series of Tracking Fund Shares shall disclose the following information regarding the Proxy Basket as required under this Rule 14.11(m), 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.

Proposed Rule 14.11(m)(4)(A) provides the initial listing criteria for a series of Tracking Fund Shares, which include the following: (A) each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following initial listing criteria: (i) for each series, the Exchange will establish a minimum number of Tracking Fund Shares required to be outstanding at the time of commencement of trading on the Exchange; (ii) the Exchange will obtain a representation from the issuer of each series of Tracking Fund Shares that the net asset value per share for the series will be calculated daily and that each of the following will be made available to all market participants at the same time when disclosed: the net asset value, the Proxy Basket, and the Fund Portfolio; and (iii) all Tracking Fund Shares shall have a stated investment objective, which shall be adhered to under Normal Market Conditions.

Proposed Rule 14.11(m)(4)(B) provides that each series of Tracking Fund Shares

will be listed and traded on the Exchange subject to application of the following continued listing criteria: (i)(a) the Proxy Basket will be disseminated at least once daily and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Proxy Basket 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 Proxy Basket; (ii)(a) the Fund Portfolio will at a minimum be publicly disclosed within at least 60 days following the end of every fiscal quarter and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Fund 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 Fund Portfolio; (iii) upon termination of an Investment Company, the Exchange requires that Tracking Fund Shares issued in connection with such entity be removed from listing on the Exchange; and (iv) voting rights shall be as set forth in the applicable Investment Company prospectus or Statement of Additional Information.

Additionally, proposed Rule 14.11(m)(4)(B)(iii) provides that the Exchange will consider the suspension of trading in and will commence delisting proceedings for a series of Tracking Fund Shares pursuant to Rule 14.12 under any of the following circumstances: (a) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Tracking Fund Shares, there are fewer than 50 beneficial holders of the series of Tracking Fund Shares for 30 or more consecutive trading days; (b) if either the Proxy Basket or Fund Portfolio is not made available to all market participants at the same time; (c) if the Investment Company issuing the Tracking

Fund Shares has failed to file any filings required by the Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission or the Commission Staff under the 1940 Act to the Investment Company with respect to the series of Tracking Fund Shares; (d) if any of the requirements set forth in this rule are not continuously maintained; (e) if any of the applicable Continued Listing Representations for the issue of Tracking Fund Shares are not continuously met; or (f) 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(m)(5) provides that Neither the Exchange, the Reporting Authority, when the Exchange is acting in the capacity of a 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 portfolio value; the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Tracking Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Tracking Fund Shares; net asset value; or other information relating to the purchase, redemption, or trading of Tracking Fund Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority when the Exchange is acting in the capacity of a 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, when the Exchange is acting in the capacity of a 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.

Proposed Rule 14.11(m)(6) provides that the provisions of this subparagraph apply only to series of Tracking Fund Shares that are the subject of an order by the Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 (the "1940 Act") and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform its members regarding application of these provisions of this subparagraph to a particular series of Tracking Fund Shares by means of an information circular prior to commencement of trading in such series. The Exchange requires that members provide to all purchasers of a series of Tracking Fund Shares a written description of the terms and characteristics of those securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of Tracking Fund Shares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Tracking Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Tracking Fund Shares) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of

Tracking Fund Shares)." A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Tracking Fund Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule. Upon request of a customer, a member shall also provide a prospectus for the particular series of Tracking Fund Shares.

Proposed Rule 14.11(m)(7) provides that if the investment adviser to the Investment Company issuing Tracking Fund Shares 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 Investment Company portfolio and Proxy Basket. Personnel who make decisions on the Investment Company's portfolio composition and/or Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio and/or Proxy Basket.

Policy Discussion – Proposed Rule 14.11(m)

The purpose of the structure of Tracking Fund Shares is to provide investors with the traditional benefits of ETFs[5] while protecting funds from the potential for front running or free riding of portfolio transactions, which could adversely impact the

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[5] For purposes of this filing, the term ETF will include only Portfolio Depositary Receipts as defined in Rule 14.11(b), Index Fund Shares as defined in Rule 14.11(c), and Managed Fund Shares as defined in Rule 14.11(i), along with the equivalent products defined in the rules of other national securities exchanges.

performance of a fund. While each series of Tracking Fund Shares will be actively managed and, to that extent, similar to Managed Fund Shares (as defined in Rule 14.11(i)), Tracking Fund Shares differ from Managed Fund Shares in one key way.[6] A series of Tracking Fund Shares will disclose the Proxy Basket on a daily basis which, as described above, is designed *to closely track* the performance of the holdings of the Investment Company, instead of the *actual holdings* of the Investment Company, as provided by a series of Managed Fund Shares.[7]

For the arbitrage mechanism for any ETF to function effectively, authorized participants, arbitrageurs, and other market participants (collectively, "Market Makers")

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6 The Exchange notes that there are two additional differences between proposed Rule 14.11(m) and Rule 14.11(i): (i) proposed Rule 14.11(m) would require a rule filing under Section 19(b) prior to listing any product on the Exchange meaning that no series of Tracking Fund Shares could be listed on the Exchange pursuant to Rule 19b-4(e) and there are no proposed rules comparable to the quantitative portfolio holdings standards from Rule 14.11(i); and (ii) proposed Rule 14.11(m) would not require the dissemination of an intraday indicative value. The Exchange has submitted a proposal to eliminate the requirement for series of Managed Fund Shares and generally agrees with the Commission's sentiment that the intraday indicative value is not necessary to support the arbitrage mechanism. See SR-CboeBZX-2019-104 and Investment Company Act Release No. 10695 (October 24, 2019) (84 FR 57162).

7 Proposed Rule 14.11(m)(4)(B)(iii) will, however, require each series of Tracking Fund Shares to at a minimum disclose the entirety of its portfolio holdings within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act.

Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

need sufficient information to accurately value shares of a fund to transact in both the primary and secondary market. The Proxy Basket, constructed as provided in the applicable exemptive relief, is designed to closely track the daily performance of the Fund Portfolio.

Given the correlation between the Proxy Basket and the Fund Portfolio,[8] the Exchange believes that the Proxy Basket would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the shares of a series of Tracking Fund Shares diverge. If shares began trading at a discount to the Proxy Basket, an authorized participant could purchase the shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit,[9] redeem them in exchange for a redemption basket reflecting the Net Asset Value ("NAV") per share of the Fund Portfolio. The purchases of shares would reduce the supply of shares in the market, and thus tend to drive up the shares' market price closer to the fund's NAV. Alternatively, if shares are trading at a premium, the transactions in the arbitrage process

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8 As provided in the Notices, funds and their respective advisers will take remedial actions as necessary if the funds do not function as anticipated. For the first three years after a launch, a fund will establish certain thresholds for its level of tracking error, premiums/discounts, and spreads, so that, upon the fund's crossing a threshold, the adviser will promptly call a meeting of the fund's board of directors and will present the board or committee with recommendations for appropriate remedial measures. The board would then consider the continuing viability of the fund, whether shareholders are being harmed, and what, if any, action would be appropriate. Specifically, the Applications and Notices provide that such a meeting would occur: (1) if the tracking error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or bid/ask price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%.

9 Tracking Fund Shares will be purchased or redeemed only in large aggregations, or "creation units," and the Proxy Basket will constitute the names and quantities of instruments for both purchases and redemptions of Creation Units.

are reversed. Market Makers also can engage in arbitrage without using the creation or redemption processes. For example, if a fund is trading at a premium to the Proxy Basket, Market Makers may sell shares short and take a long position in the Proxy Basket securities, wait for the trading prices to move toward parity, and then close out the positions in both the shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a Market Maker could buy shares and take a short position in the Proxy Basket securities in an attempt to profit when shares are trading at a discount to the Proxy Basket.

Overall, the Exchange believes that the arbitrage process would operate similarly to the arbitrage process in place today for existing ETFs that use in-kind baskets for creations and redemptions that do not reflect the ETF's complete holdings but nonetheless produce performance that is highly correlated to the performance of the ETF's actual portfolio. The Exchange has observed highly efficient trading of ETFs that invest in markets where security values are not fully known at the time of ETF trading, and where a perfect hedge is not possible, such as international equity and fixed-income ETFs. While the ability to value and hedge many of these existing ETFs in the market may be limited, such ETFs have generally maintained an effective arbitrage mechanism and traded efficiently.

As provided in the Notice, the Commission believes that an arbitrage mechanism based largely on the combination of a daily disclosed Proxy Basket and at a minimum quarterly disclosure of the Fund Portfolio can work in an efficient manner to maintain a fund's secondary market prices close to its NAV.[10] Consistent with the Commission's

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[10] See Notice at 17. The Commission also notes that as long as arbitrage continues

view, the Exchange believes that because the arbitrage mechanism for Tracking Fund Shares will be sufficient to keep secondary market prices in line with NAV and because the proposed rules are except as described above nearly identical to the generic listing standards for Managed Fund Shares, proposed Rule 14.11(m) is consistent with the Act.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended

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to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.

While not providing daily disclosure of the Fund Portfolio could open the door to potential information leakage and misuse of material non-public information, the Exchange believes that proposed Rules 14.11(m)(2)(E) and (F) provide sufficient safeguards to prevent such leakage and misuse of information. The Exchange believes that these proposed rules are designed to prevent fraudulent and manipulative acts and practices related to the listing and trading of Tracking Fund Shares because they provide meaningful requirements about both the data that will be made publicly available about the Shares as well as the information that will only be available to certain parties and the controls on such information. Specifically, the Exchange believes that the requirements related to information protection enumerated under proposed Rule 14.11(m)(2)(F) will act as a strong safeguard against any misuse and improper dissemination of information related to a Fund Portfolio, the Proxy Basket, or changes thereto. The requirement that any person or entity implement procedures to prevent the use and dissemination of material nonpublic information regarding the Fund Portfolio or Proxy Basket will act to prevent any individual or entity from sharing such information externally and the internal "fire wall" requirements applicable where an entity is a registered broker-dealer or affiliated with a broker-dealer will act to make sure that no entity will be able to misuse the data for their own purposes. As such, the Exchange believes that this proposal is designed to prevent fraudulent and manipulative acts and practices.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Tracking Fund Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities

laws. Trading of Tracking Fund Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products. The Exchange will require the issuer of each series of Tracking Fund Shares listed on the Exchange to represent to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted in proposed Rule 14.11(m)(2)(D), the Investment Company's investment adviser will upon request make available to the Exchange and/or FINRA, on behalf of the Exchange, the daily portfolio holdings of each series of Managed Portfolio Shares. The Exchange believes that this is appropriate because it will provide the Exchange or FINRA, on behalf of the Exchange, with access to the daily Fund Portfolio of any series of Tracking Fund Shares upon request on an as needed basis. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Tracking Fund Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of the shares.

Trading Halts

As described above, proposed Rule 14.11(m)(4)(B)(iv) provides that if the

Exchange becomes aware that one of the following is not being made available to all market participants at the same time, respectively: the net asset value, the Proxy Basket, or the Fund Portfolio with respect to a series of Tracking Fund Shares; then the Exchange will halt trading in such series until such time as the net asset value, the Proxy Basket, or the Fund Portfolio is available to all market participants, as applicable.

Availability of Information

As noted above, Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line.

Trading Rules

The Exchange deems Tracking Fund Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of

equity securities. As provided in proposed Rule 14.11(m)(2)(C), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01.

Information Circular

Prior to the commencement of trading of a series of Tracking Fund Shares, the Exchange will inform its members in an Information Circular ("Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Circular will discuss the following: (1) the procedures for purchases and redemptions of Shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Proxy Basket is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) trading information; and (6) that the Fund Portfolio of the Shares are not disclosed on a daily basis.

In addition, the Circular will reference that Funds are subject to various fees and expenses described in the Registration Statement. The Circular will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Circular will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

The Shares

The Shares are offered by the Trust, which is organized as a business trust under the laws of The Commonwealth of Massachusetts. The Trust is registered with the Commission as an open-end investment company and will file a registration statement on

behalf of the Funds on Form N-1A ("Registration Statement") with the Commission.[11] Fidelity Management & Research Company or FMR Co., Inc. (the "Adviser") will be the investment adviser to the Funds. The Adviser is not registered as a broker-dealer, but is affiliated with numerous broker-dealers. The Adviser represents that a fire wall exists and will be maintained between the respective personnel at the Adviser and affiliated broker-dealers with respect to access to information concerning the composition and/or changes to each Fund's portfolio and Proxy Basket. Personnel who make decisions on a Fund's portfolio composition and/or Proxy Basket shall be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio and/or Proxy Basket. The Funds' sub-advisers, FMR Investment Management (UK) Limited, Fidelity Management & Research (Hong Kong) Limited, and Fidelity Management & Research (Japan) Limited (each a "Sub-Adviser" and, collectively, the "Sub-Advisers"), are not registered as a broker-dealer but are affiliated with numerous broker-dealers. Sub-Adviser personnel who make decisions regarding a Fund's portfolio and/or Proxy Basket are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio and/or Proxy Basket. In the event that (a) the Adviser or a Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer; or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes newly affiliated with a broker-dealer; it will implement and maintain a fire wall with respect to its relevant personnel or such

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[11] The Trust intends to file a post-effective amendment to the Registration Statement in the near future. The descriptions of the Funds and the Shares contained herein are based, in part, on information that will be included in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1).

broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and/or Proxy Basket, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio and/or Proxy Basket. Each Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

The Shares will conform to the initial and continued listing criteria under Rule 14.11(l) as well as all terms in the Exemptive Order. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A-3 under the Act.[12] A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of each Fund that the NAV per share of each Fund will be calculated daily and will be made available to all market participants at the same time.

Fidelity Blue Chip Value ETF

Notwithstanding the following description, the Fund's holdings will conform to the permissible investments as set forth in the Application and Order. The Fund seeks long-term growth of capital. In order to achieve its investment objective, under Normal Market Conditions, the Fund will invest at least 80% of its assets in: (i) blue chip companies (companies whose stock is included in the S&P 500® Index or the Dow Jones Industrial Average℠ (DJIA℠), and companies with market capitalizations of at least $1 billion if not included in either index); (ii) companies that the Adviser believes are undervalued in the marketplace in relation to factors such as assets, sales, earnings,

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[12] See 17 CFR 240.10A-3.

growth potential, or cash flow, or in relation to securities of other companies in the same industry (stocks of these companies are often called "value" stocks) listed on a U.S. national securities exchange or a foreign exchange that trade on such exchange contemporaneously with the Fund's Shares; and (ii) cash and Cash Equivalents.[13]

The Fund may also invest the Fund's assets in other securities and financial instruments, as summarized below. Under Normal Market Conditions, the Fund may invest up to 5% of its assets in U.S. exchange-traded index futures. The Fund may invest in ETFs to facilitate creations and redemptions using the Proxy Basket, as defined above.[14] Except as described above, the Fund will not invest in derivative instruments or enter into short positions.[15]

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13 For purposes of this proposal and as defined in Rule 14.11(i)(4)(C)(iii), Cash Equivalents are short-term instruments with maturities of less than three months that are: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

14 Given that the Tracking Basket would normally serve as a Fund's Creation Basket, a Fund may acquire Representative ETFs to create or redeem Shares. A Fund would not hold Representative ETFs for investment purposes. While the Adviser will not hold Representative ETFs in a Fund's portfolio for investment purposes, Representative ETFs will nonetheless convey accurate information about the types of instruments in which the Fund invests given that Representative ETFs will themselves invest in the types of securities included in the Fund's portfolio.

15 The Adviser notes that the Fund may by virtue of its holdings be issued warrants and rights. The Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders.

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares.

Fidelity Blue Chip Growth ETF

Notwithstanding the following description, the Fund's holdings will conform to the permissible investments as set forth in the Application and Order. The Fund seeks long-term growth of capital. In order to achieve its investment objective, under Normal Market Conditions, the Fund will invest at least 80% of its assets in: (i) blue chip companies (companies whose stock is included in the S&P 500® Index or the Dow Jones Industrial Average℠ (DJIA℠), and companies with market capitalizations of at least $1 billion if not included in either index) (ii) companies that the Adviser believes have above-average growth potential (stocks of these companies are often called "growth" stocks) that are listed on a U.S. national securities exchange or a foreign exchange that trade on such exchange contemporaneously with the Fund's Shares; and (iii) cash and Cash Equivalents.

The Fund may also invest the Fund's assets in other securities and financial instruments, as summarized below. Under Normal Market Conditions, the Fund may invest up to 5% of its assets in U.S. exchange-traded index futures The Fund may invest in ETFs to facilitate creations and redemptions using the Proxy Basket, as defined above.

Except as described above, the Fund will not invest in derivative instruments or enter into short positions.[16]

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares.

Fidelity New Millennium ETF

Notwithstanding the following description, the Fund's holdings will conform to the permissible investments as set forth in the Application and Order. The Fund seeks long-term growth of capital. In order to achieve its investment objective, under Normal Market Conditions, the Fund will primarily invest in (i) companies that may benefit from opportunities created by long-term changes in the marketplace by examining technological advances, product innovation, economic plans, demographics, social attitudes, and other factors, which can lead to investments in small and medium-sized companies; (ii) both "growth" and "value" stocks based on fundamental analysis of factors such as each issuer's financial condition and industry position, as well as market and economic conditions that are listed on a U.S. national securities exchange or a

[16] The Adviser notes that the Fund may by virtue of its holdings be issued warrants and rights. The Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders.

foreign exchange that trade on such exchange contemporaneously with the Fund's Shares; and (iii) cash and Cash Equivalents.

The Fund may also invest the Fund's assets in other securities and financial instruments, as summarized below. Under Normal Market Conditions, the Fund may invest up to 5% of its assets in U.S. exchange-traded index futures. The Fund may invest in ETFs to facilitate creations and redemptions using the Proxy Basket, as defined above. Except as described above, the Fund will not invest in derivative instruments or enter into short positions.[17]

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares.

Proxy Basket for the Proposed Funds

For the Funds, the Proxy Basket will consist of a combination of the Fund's recently disclosed portfolio holdings and representative ETFs. ETFs selected for inclusion in the Proxy Basket will be consistent with the Fund's objective and selected based on certain criteria, including, but not limited to, liquidity, assets under management, holding limits and compliance considerations. Representative ETFs can

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[17] The Adviser notes that the Fund may by virtue of its holdings be issued warrants and rights. The Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders.

provide a useful mechanism to reflect a Fund's holdings' exposures within the Proxy Basket without revealing a Fund's exact positions.[18] The Exchange notes that each Fund's NAV will form the basis for creations and redemptions for the Funds and creations and redemptions will work in a manner substantively identical to that of series of Managed Fund Shares. The Adviser expects that the Shares of the Funds will generally be created and redeemed in-kind, with limited exceptions. The names and quantities of the instruments that constitute the basket of securities for creations and redemptions will be the same as a Fund's Proxy Basket, except to the extent purchases and redemptions are made entirely or in part on a cash basis. In the event that the value of the Proxy Basket is not the same as a Fund's NAV, the creation and redemption baskets will consist of the securities included in the Proxy Basket plus or minus an amount of cash equal to the difference between the NAV and the value of the Proxy Basket, as further described below.

The Proxy Basket will be constructed utilizing a covariance matrix based on an optimization process to minimize deviations in the return of the Proxy Basket relative to the Fund. The proprietary optimization process mathematically seeks to minimize three key parameters that the Adviser believes are important to the effectiveness of the Proxy Basket as a hedge: tracking error (standard deviation of return differentials between the

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[18] The set of ETFs that are "representative" to be used in the Proxy Basket will depend on certain factors, including the Fund's investment objective, past holdings, and benchmark, and may change from time to time. For example, a U.S. diversified fund benchmarked to a diversified U.S. index would use liquid U.S. exchange-traded ETFs to capture size (large, mid or small capitalization), style (growth or value) and/or sector exposures in the Fund's portfolio. Leveraged and inverse ETFs will not be included in the Proxy Basket. ETFs may constitute no more than 50% of the Proxy Basket's assets.

Proxy Basket and the Fund), turnover cost, and basket creation cost.[19] Typically, the Proxy Basket is expected to be rebalanced on schedule with the public disclosure of the Fund's holdings; however, a new optimized Proxy Basket may be generated as frequently as daily, and therefore, rebalancing may occur more frequently at the Adviser's discretion. In determining whether to rebalance a new optimized Proxy Basket, the Adviser will consider various factors, including liquidity of the securities in the Proxy Basket, tracking error, and the cost to create and trade the Proxy Basket.[20] For example, if the Adviser determines that a new Proxy Basket would reduce the variability of return differentials between the Proxy Basket and the Fund when balanced against the cost to trade the new Proxy Basket, rebalancing may be appropriate. The Adviser will periodically review the Proxy Basket parameters and Proxy Basket performance and process.

As noted above, each Fund will also disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio, at a minimum within at least 60 days following the end of every fiscal quarter. As described above, the Exchange notes that the concept of the Proxy Basket

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19 Tracking error measures the deviations between the Proxy Basket and Fund. Turnover cost and basket creation cost are measures of the cost to create and maintain the Proxy Basket as a hedge.

20 The Adviser uses a trading cost model to develop estimates of costs to trade a new Proxy Basket. There are essentially two elements to this cost: (1) the cost to purchase securities constituting the Proxy Basket, *i.e.,* the cost to put on the hedge for the Authorized Participant, and (2) the cost of any adjustments that need to be made to the composition of the Proxy Basket, *i.e.*, the cost to the Authorized Participant to change or maintain the hedge position. The inclusion of the trading cost model in the optimization process is intended to result in a Proxy Basket that is cost effective and liquid without compromising its tracking ability.

employed under this structure is designed to provide investors with the traditional benefits of ETFs while protecting the Funds from the potential for front running or free riding of portfolio transactions, which could adversely impact the performance of a Fund.

Policy Discussion – Proposed Funds

As discussed above, each Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares and, as such, any such concerns related to the portfolio are mitigated.

Separately and in addition to the rationale supporting the arbitrage mechanism for Tracking Fund Shares more broadly above, the Exchange also believes that the particular instruments that may be included in each Fund's portfolio and Proxy Basket do not raise any concerns related to the Proxy Baskets being able to closely track the NAV of the Funds because such instruments include only instruments that trade on an exchange contemporaneously with the Shares. In addition, a Fund's Proxy Basket will be optimized so that it reliably and consistently correlates to the performance of the Fund. The Notice specifically states that "in order to facilitate arbitrage, each Fund's portfolio and Tracking Basket will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares. Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Tracking Basket for purposes of assessing the intraday value of the Fund's portfolio

holdings and to hedge their positions in the Fund's Shares."[21] The Exchange and Adviser agree with the Commission's conclusion.

The Adviser anticipates that the returns between a Fund and its respective Proxy Basket will have a consistent relationship and that the deviation in the returns between a Fund and its Proxy Basket will be sufficiently small such that the Proxy Basket will provide Market Makers with a reliable hedging vehicle that they can use to effectuate low-risk arbitrage trades in Fund Shares. The Exchange believes that the disclosures provided by the Funds will allow Market Makers to understand the relationship between the performance of a Fund and its Proxy Basket. Market Makers will be able to estimate the value of and hedge positions in a Fund's Shares, which the Exchange believes will facilitate the arbitrage process and help ensure that the Fund's Shares normally will trade at market prices close to their NAV. The Exchange also believes that competitive market making, where traders are looking to take advantage of differences in bid-ask spread, will aid in keeping spreads tight.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy

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[21] The Exchange notes that the instruments enumerated herein are consistent with the investable universe contemplated in the Notice. Specifically, the Notice provides that "Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents…All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an "Exchange" is a national securities exchange as defined in section 2(a)(26) of the [1940] Act." See Notice at 10.

Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended.

Additional Information

The Exchange represents that the Shares of the Funds will continue to comply with all other proposed requirements applicable to Tracking Fund Shares, including the dissemination of key information such as the Proxy Basket, the Fund Portfolio, and Net Asset Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in the proposed Exchange rules applicable to Tracking Fund Shares and the orders approving such rules.

Price information for the exchange-listed instruments held by the Funds, including both U.S. and non-U.S. listed equity securities and U.S. exchange-listed futures

will be available through major market data vendors or securities exchanges listing and trading such securities. Moreover, U.S.-listed equity securities held by the Funds will trade on markets that are a member of Intermarket Surveillance Group ("ISG") or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[22] All futures contracts that the Funds may invest in will be traded on a U.S. futures exchange. The Exchange or the Financial Industry Regulatory Authority ("FINRA"), on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, underlying U.S. exchange-listed equity securities, and U.S. exchange-listed futures with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying equity securities, and U.S. exchange-listed futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Shares. The issuer has represented to the

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[22] For a list of the current members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Exchange that it will advise the Exchange of any failure by the Funds or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[23] in general and Section 6(b)(5) of the Act[24] in particular in that it is 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 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 Exchange believes that proposed Rule 14.11(m) is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading of Tracking Fund Shares provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 14.11(m)(4)(A) provides the initial listing criteria for a series of Tracking Fund Shares, which include the following:

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[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(5).

(A) each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following initial listing criteria: (i) for each series, the Exchange will establish a minimum number of Tracking Fund Shares required to be outstanding at the time of commencement of trading on the Exchange; (ii) the Exchange will obtain a representation from the issuer of each series of Tracking Fund Shares that the net asset value per share for the series will be calculated daily and that each of the following will be made available to all market participants at the same time when disclosed: the net asset value, the Proxy Basket, and the Fund Portfolio.

Proposed Rule 14.11(m)(4)(B) provides that each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following continued listing criteria: (i)(a) the Proxy Basket will be disseminated at least once daily and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Proxy Basket 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 Proxy Basket; (ii)(a) the Fund Portfolio will at a minimum be publicly disclosed within at least 60 days following the end of every fiscal quarter and will be made available to all market participants at the same time; and (b) the Reporting Authority that provides the Fund 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 Fund Portfolio; (iii) upon termination of an Investment Company, the Exchange requires that Tracking Fund Shares issued in connection with such entity be removed from listing on the Exchange; and (iv) voting rights shall be as set forth in the applicable Investment

Company prospectus or Statement of Additional Information.

Additionally, proposed Rule 14.11(m)(4)(B)(iii) provides that the Exchange will consider the suspension of trading in and will commence delisting proceedings for a series of Tracking Fund Shares pursuant to Rule 14.12 under any of the following circumstances: (a) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Tracking Fund Shares, there are fewer than 50 beneficial holders of the series of Tracking Fund Shares for 30 or more consecutive trading days; (b) if either the Proxy Basket or Fund Portfolio is not made available to all market participants at the same time; (c) if the Investment Company issuing the Tracking Fund Shares has failed to file any filings required by the Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission to the Investment Company with respect to the series of Tracking Fund Shares; (d) if any of the requirements set forth in this rule are not continuously maintained; (e) if any of the applicable Continued Listing Representations for the issue of Tracking Fund Shares are not continuously met; or (f) 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(m)(4)(B)(iv) provides that if the Exchange becomes aware that one of the following is not being made available to all market participants at the same time: the net asset value, the Proxy Basket, or the Fund Portfolio with respect to a series of Tracking Fund Shares; then the Exchange will halt trading in such series until such time as the NAV, the Proxy Basket, or the Fund Portfolio is available to all market participants, as applicable.

Proposed Rule 14.11(m)(7) provides that if the investment adviser to the Investment Company issuing Tracking Fund Shares 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 Investment Company portfolio and Proxy Basket. Personnel who make decisions on the Investment Company's portfolio composition and/or Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio and/or Proxy Basket.

The Exchange believes that these proposed rules are designed to prevent fraudulent and manipulative acts and practices related to the listing and trading of Tracking Fund Shares because they provide meaningful requirements about both the data that will be made publicly available about the Shares (the Proxy Basket) as well as the information that will only be available to certain parties and the controls on such information. Specifically, the Exchange believes that the requirements related to information protection enumerated under proposed Rule 14.11(m)(7) will act as a strong safeguard against any misuse and improper dissemination of information related to the securities included in or changes made to the Fund Portfolio and/or the Proxy Basket. As such, the Exchange believes that this proposal is designed to prevent fraudulent and manipulative acts and practices.

As noted above, the purpose of the structure of Tracking Fund Shares is to provide investors with the traditional benefits of ETFs while protecting funds from the potential for front running or free riding of portfolio transactions, which could adversely

impact the performance of a fund. While each series of Tracking Fund Shares will be actively managed and, to that extent, similar to Managed Fund Shares (as defined in Rule 14.11(i)), Tracking Fund Shares differ from Managed Fund Shares in one key way.[25] A series of Tracking Fund Shares will disclose the Proxy Basket on a daily basis which, as described above, is designed *to closely track* the performance of the holdings of the Investment Company, instead of the *actual holdings* of the Investment Company, as provided by a series of Managed Fund Shares.[26]

For the arbitrage mechanism for any ETF to function effectively, Market Makers need sufficient information to accurately value shares of a fund to transact in both the

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[25] The Exchange notes that there are two additional substantive differences between proposed Rule 14.11(m) and Rule 14.11(i): (i) proposed Rule 14.11(m) would require a rule filing under Section 19(b) prior to listing any product on the Exchange meaning that no series of Tracking Fund Shares could be listed on the Exchange pursuant to Rule 19b-4(e) and there are no proposed rules comparable to the quantitative portfolio holdings standards from Rule 14.11(i); and (ii) proposed Rule 14.11(m) would not require the dissemination of an intraday indicative value. The Exchange has submitted a proposal to eliminate the requirement for series of Managed Fund Shares and generally agrees with the Commission's sentiment that the intraday indicative value is not necessary to support the arbitrage mechanism. See SR-CboeBZX-2019-104 and Investment Company Act Release No. 10695 (October 24, 2019) (84 FR 57162).

[26] Proposed Rule 14.11(m)(4)(B)(ii) will, however, require each series of Tracking Fund Shares to at a minimum disclose the entirety of its portfolio holdings within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act.

Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

primary and secondary market. The Proxy Basket, constructed as provided in the applicable exemptive relief, is designed to closely track the daily performance of the holdings of a series of Tracking Fund Shares.

Given the correlation between the Proxy Basket and the Fund Portfolio,[27] the Exchange believes that the Proxy Basket would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the shares of a series of Tracking Fund Shares diverge. If shares began trading at a discount to the Proxy Basket, an authorized participant could purchase the shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit,[28] redeem them in exchange for a redemption basket reflecting the NAV per share of the fund's portfolio holdings. The purchases of shares would reduce the supply of shares in the market, and thus tend to drive up the shares' market price closer to the fund's NAV. Alternatively, if shares are trading at a premium, the transactions in the arbitrage process are reversed. Market Makers also can engage in arbitrage without using the creation or

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[27] As provided in the Notices, funds and their respective advisers will take remedial actions as necessary if the funds do not function as anticipated. For the first three years after a launch, a fund will establish certain thresholds for its level of tracking error, premiums/discounts, and spreads, so that, upon the fund's crossing a threshold, the adviser will promptly call a meeting of the fund's board of directors and will present the board or committee with recommendations for appropriate remedial measures. The board would then consider the continuing viability of the fund, whether shareholders are being harmed, and what, if any, action would be appropriate. Specifically, the Applications and Notices provide that such a meeting would occur: (1) if the tracking error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or bid/ask price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%.

[28] Tracking Fund Shares will be purchased or redeemed only in large aggregations, or "creation units," and the Proxy Basket will constitute the names and quantities of instruments for both purchases and redemptions of Creation Units.

redemption processes. For example, if a fund is trading at a premium to the Proxy Basket, Market Makers may sell shares short and take a long position in the Proxy Basket securities, wait for the trading prices to move toward parity, and then close out the positions in both the shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a Market Maker could buy shares and take a short position in the Proxy Basket securities in an attempt to profit when shares are trading at a discount to the Proxy Basket.

Overall, the Exchange believes that the arbitrage process would operate similarly to the arbitrage process in place today for existing ETFs that use in-kind baskets for creations and redemptions that do not reflect the ETF's complete holdings but nonetheless produce performance that is highly correlated to the performance of the ETF's actual portfolio. The Exchange has observed highly efficient trading of ETFs that invest in markets where security values are not fully known at the time of ETF trading, and where a perfect hedge is not possible, such as international equity and fixed-income ETFs. While the ability to value and hedge many of these existing ETFs in the market may be limited, such ETFs have generally maintained an effective arbitrage mechanism and traded efficiently.

As provided in the Notice, the Commission believes that an arbitrage mechanism based largely on the combination of a daily disclosed Proxy Basket and at a minimum quarterly disclosure of the Fund Portfolio can work in an efficient manner to maintain a fund's secondary market prices close to its NAV.[29] Consistent with the Commission's

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[29] See Fidelity Notice at 17. The Commission also notes that as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, that investors would benefit from the

view, the Exchange believes that the arbitrage mechanism for Tracking Fund Shares will be sufficient to keep secondary market prices in line with NAV. This, combined with the fact that the proposed rules are, except as described above, nearly identical to the generic listing standards for Managed Fund Shares, leads the Exchange to believe that the proposed Rule 14.11(m) is consistent with the Act.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended

The Exchange believes that its surveillance procedures are adequate to properly

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opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.

monitor the trading of Tracking Fund Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of Tracking Fund Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products. The Exchange will require the issuer of each series of Tracking Fund Shares listed on the Exchange to represent to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted in proposed Rule 14.11(m)(2)(D), the Investment Company's investment adviser will upon request make available to the Exchange and/or FINRA, on behalf of the Exchange, the daily portfolio holdings of each series of Managed Portfolio Shares. The Exchange believes that this is appropriate because it will provide the Exchange or FINRA, on behalf of the Exchange, with access to the daily Fund Portfolio of any series of Tracking Fund Shares upon request on an as needed basis. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Tracking Fund Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of the shares.

As noted above, Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund's SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at www.sec.gov.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line. The Exchange deems Tracking Fund Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. As provided in proposed Rule 14.11(m)(2)(C), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01.

The Funds

As discussed above, each Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Tracking Fund Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and

concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Tracking Fund Shares and, as such, any such concerns related to the portfolio are mitigated.

Separately and in addition to the rationale supporting the arbitrage mechanism for Tracking Fund Shares more broadly above, the Exchange also believes that the particular instruments that may be included in each Fund's portfolio and Proxy Basket do not raise any concerns related to the Proxy Baskets being able to closely track the NAV of the Funds because such instruments include only instruments that trade on an exchange contemporaneously with the Shares. In addition, a Fund's Proxy Basket will be optimized so that it reliably and consistently correlates to the performance of the Fund. The Notice specifically states that "in order to facilitate arbitrage, each Fund's portfolio and Tracking Basket, which is the Proxy Basket under proposed Rule 14.11(m)(3)(E) for the purpose of the Funds, will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares. Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Tracking Basket for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's Shares."[30] The Exchange and Adviser agree with the Commission's conclusion.

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[30] The Exchange notes that the instruments enumerated herein are consistent with the investable universe contemplated in the Notice. Specifically, the Notice provides that "Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash

The Adviser anticipates that the returns between a Fund and its respective Proxy Basket will have a consistent relationship and that the deviation in the returns between a Fund and its Proxy Basket will be sufficiently small such that the Proxy Basket will provide Market Makers with a reliable hedging vehicle that they can use to effectuate low-risk arbitrage trades in Fund Shares. The Exchange believes that the disclosures provided by the Funds will allow Market Makers to understand the relationship between the performance of a Fund and its Proxy Basket. Market Makers will be able to estimate the value of and hedge positions in a Fund's Shares, which the Exchange believes will facilitate the arbitrage process and help ensure that the Fund's Shares normally will trade at market prices close to their NAV. The Exchange also believes that competitive market making, where traders are looking to take advantage of differences in bid-ask spread, will aid in keeping spreads tight.

The Exchange notes that a significant amount of information about each fund and its Fund Portfolio is publicly available at all times. Each series will disclose the Proxy Basket, which is designed to closely track the daily performance of the Fund Portfolio, on a daily basis. Each series of Tracking Fund Shares will at a minimum publicly disclose the entirety of its portfolio holdings, including the name, identifier, market value and weight of each security and instrument in the portfolio within at least 60 days following the end of every fiscal quarter in a manner consistent with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act. The website will include additional quantitative information updated on a

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equivalents…All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an "Exchange" is a national securities exchange as defined in section 2(a)(26) of the [1940] Act." See Notice at 10.

daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price at the time of calculation of such NAV, and a calculation of the premium or discount of the Closing Price or Bid/Ask Price against such NAV. The website will also disclose any information regarding the bid/ask spread for each Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended.

The Exchange represents that the Shares of the Funds will continue to comply with all other proposed requirements applicable to Tracking Fund Shares, which also generally correspond to the requirements for Managed Fund Shares, including the dissemination of key information such as the Proxy Basket, the Fund Portfolio, and Net Asset Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in the proposed Exchange rules applicable to Tracking Fund Shares and the orders approving such rules. Moreover, U.S.-listed equity securities held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[31] All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall

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[31] For a list of the current members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

constitute continued listing requirements for the Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

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 purpose of the Act. Rather, the Exchange notes that the proposed rule change will facilitate the listing of a new type of actively-managed exchange-traded products, thus enhancing competition among both market participants and listing venues, 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

The Exchange has neither solicited nor received written 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-2019-107 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-2019-107 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-2019-107 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.[32]

Secretary

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[32] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Note: Proposed new language is underlined; proposed deletions are enclosed in [brackets].

Rules of Cboe BZX Exchange, Inc.

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CHAPTER XIV. CBOE BZX EXCHANGE LISTING RULES

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Rule 14.11 Other Securities

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(m) Tracking Fund Shares

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

(2) Applicability. This Rule is applicable only to Tracking Fund Shares. Except to the extent inconsistent with this Rule, 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. Tracking Fund Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange.

(A) The Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Tracking Fund Shares.

(B) Transactions in Tracking Fund Shares will occur throughout the Exchange's trading hours.

(C) Minimum Price Variance. The minimum price variation for quoting and entry of orders in Tracking Fund Shares is $0.01.

(D) Surveillance Procedures. The Exchange will implement and maintain written surveillance procedures for Tracking Fund Shares. As part of these surveillance procedures, the Investment Company's investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Fund Portfolio of each series of Tracking Fund Shares.

(E) If the investment adviser to the Investment Company issuing Tracking Fund Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a "fire wall" between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to the Fund Portfolio and/or the Proxy Basket. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company's Fund Portfolio or has access to information regarding the Fund Portfolio or changes thereto or the Proxy Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund Portfolio or changes thereto or the Proxy Basket.

(F) Any person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Fund Portfolio or changes thereto or the Proxy Basket, must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Fund Portfolio or changes thereto or the Proxy Basket. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a “fire wall” between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Fund Portfolio or Proxy Basket.

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

(A) Tracking Fund Share. The term “Tracking Fund Share” means a security that: (i) represents an interest in an investment company registered under the Investment Company Act of 1940 ("Investment Company") organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (ii) is issued in a specified aggregate minimum number in return for a deposit of specified Proxy Basket securities and/or a cash amount with a value equal to the next determined net asset value; (iii) when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid specified Proxy Basket securities and/or a cash amount with a value equal to the next determined net asset value; and (iv) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

(B) Fund Portfolio. The term “Fund 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.

(C) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Tracking 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 Tracking 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 Proxy Basket; the Fund Portfolio; the amount of any cash distribution to holders of Tracking Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Tracking Fund Shares. A series of Tracking Fund Shares may have more than one Reporting Authority, each having different functions.

(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 (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

(E) Proxy Basket. The term "Proxy Basket" means the identities and quantities of the securities and other assets included in a basket that is designed to closely track the daily performance of the Fund Portfolio, as provided in the exemptive relief under the 1940 Act applicable to a series of Tracking Fund Shares. The Proxy Basket also serves as the creation and redemption basket for a series of Tracking Fund Shares. The Proxy Basket will be constructed as provided in the applicable exemptive relief under the 1940 Act and will be fully described in the proposal required under Rule 14.11(m)(2)(A). The website for each series of Tracking Fund Shares shall disclose the following information regarding the Proxy Basket as required under this Rule 14.11(m), to the extent applicable:

(i) Ticker symbol;

(ii) CUSIP or other identifier;

(iii) Description of the instrument;

(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 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 instrument in the portfolio.

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

(A) Initial Listing. Each series of Tracking Fund Shares will be listed and traded on the Exchange subject to application of the following initial listing criteria:

(i) For each series, the Exchange will establish a minimum number of Tracking Fund Shares required to be outstanding at the time of commencement of trading on the Exchange.

(ii) The Exchange will obtain a representation from the issuer of each series of Tracking Fund Shares that the net asset value per share for the series will be calculated daily and that each of the following will be made available to all market participants at the same time when disclosed: the net asset value, the Proxy Basket, and the Fund Portfolio.

(iii) All Tracking Fund Shares shall have a stated investment objective, which shall be adhered to under Normal Market Conditions.

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

(i) Proxy Basket.

(a) The Proxy Basket will be publicly 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 Proxy Basket 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 Proxy Basket.

(ii) Fund Portfolio.

(a) The Fund Portfolio will at a minimum be publicly disclosed within at least 60 days following the end of every fiscal quarter and will be made available to all market participants at the same time.

(b) The Reporting Authority that provides the Fund 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 Fund Portfolio.

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

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

(b) if either the Proxy Basket or Fund Portfolio is not made available to all market participants at the same time;

(c) if the Investment Company issuing the Tracking Fund Shares has failed to file any filings required by the Commission or if the Exchange is aware that the

Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission or the Commission staff under the 1940 Act to the Investment Company with respect to the series of Tracking Fund Shares;

(d) if any of the requirements set forth in this rule are not continuously maintained;

(e) if any of the applicable Continued Listing Representations for the issue of Tracking Fund Shares are not continuously met; or

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

(iv) Trading Halt. If the Exchange becomes aware that one of the following is not being made available to all market participants at the same time: the net asset value, the Proxy Basket, or the Fund Portfolio with respect to a series of Tracking Fund Shares; then the Exchange will halt trading in such series until such time as the net asset value, the Proxy Basket, or the Fund Portfolio is available to all market participants, as applicable.

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

(vi) Voting. Voting rights shall be as set forth in the applicable Investment Company prospectus and/or statement of additional information.

(5) Limitation of Liability. Neither the Exchange, the Reporting Authority, when the Exchange is acting in the capacity of a 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 portfolio value; the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Tracking Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Tracking Fund Shares; net asset value; or other information relating to the purchase, redemption, or trading of Tracking Fund Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority when the Exchange is acting in the capacity of a 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, when the Exchange is acting in the capacity of a 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.

(6) Disclosures. The provisions of this subparagraph apply only to series of Tracking Fund Shares that are the subject of an order by the Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform its members regarding application of these provisions of this subparagraph to a particular series of Tracking Fund Shares by means of an information circular prior to commencement of trading in such series.

The Exchange requires that members provide to all purchasers of a series of Tracking Fund Shares a written description of the terms and characteristics of those securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, members shall include such a written description with any sales material relating to a series of Tracking Fund Shares that is provided to customers or the public. Any other written materials provided by a member to customers or the public making specific reference to a series of Tracking Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Tracking Fund Shares) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Tracking Fund Shares)."

A member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of Tracking Fund Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members under this rule.

Upon request of a customer, a member shall also provide a prospectus for the particular series of Tracking Fund Shares.

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