

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83467; File No. SR-CboeBZX-2018-019)

June 19, 2018

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, to List and Trade Shares of Eighteen ADRPLUS Funds of the Precidian ETFs Trust Under Rule 14.11(i), Managed Fund Shares

I. Introduction

On March 5, 2018, Cboe BZX Exchange, Inc. filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of eighteen ADRPLUS Funds (“Funds”) of the Precidian ETFs Trust (“Trust”). The proposed rule change was published for comment in the Federal Register on March 21, 2018.³ On April 25, 2018, the Exchange filed Amendment No. 1 to the proposed rule change,⁴ and the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On May 17, 2018,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 82881 (March 15, 2018), 83 FR 12449.

⁴ Amendment No. 1 replaced and superseded the original rule filing in its entirety. Amendment No. 1 is available at <https://www.sec.gov/comments/sr-cboebzx-2018-019/cboebzx2018019-3551361-162325.pdf>. Amendment No. 1 was subsequently replaced and superseded in its entirety by Amendment No. 2. See note 7, infra.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 83102 (April 25, 2018), 83 FR 19126 (May 1, 2018). The Commission designated June 19, 2018, as the date by which the Commission would either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

the Exchange filed Amendment No. 2 to the proposed rule change.⁷ The Commission has received no comment letters on the proposed rule change, as modified by Amendment No. 2 thereto. This order institutes proceedings under Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2 thereto.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of eighteen different series of the Trust under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. Specifically, the Exchange proposes to list Shares of Anheuser-Busch InBev SA/NV

⁷ In Amendment No. 2, which amends the proposed rule change and replaces and supersedes Amendment No. 1 in its entirety, the Exchange: (1) specified that the Funds' investments in derivatives would be limited to over-the-counter ("OTC") currency swaps; (2) corrected references to Exchange rules; (3) deleted a representation that the Funds may not meet the requirement in Exchange Rule 14.11(i)(4)(C)(iv)(b) that the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures); (4) represented that the Funds' investments in cash equivalents would be limited to the cash equivalents listed in Exchange Rule 14.11(i)(4)(C)(iii); (5) represented that the Trust would comply with the surveillance requirements for Managed Fund Shares under Exchange Rule 14.11(i); (6) represented that each Fund expects to invest in excess of 95% of its net assets in the Unhedged ADRs (as defined herein), and that each Fund expects that the gross notional value of the Currency Hedge (as defined herein) would be equal to the value of the Unhedged ADRs, which would be approximately 50% of the weight of the portfolio (including gross notional exposures); (7) represented that the Exchange will suspend trading and commence delisting proceedings for a Fund if the Unhedged ADR held by the Fund has been suspended from trading or delisted by the Unhedged ADR's listing exchange; (8) represented that the Exchange or FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income instruments reported to TRACE; (9) deleted repetitive information and information irrelevant to this proposal; and (10) made other clarifications, corrections, and technical and conforming changes. Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-cboebzx-2018-019/cboebzx2018019-3665011-162423.pdf>. Because Amendment No. 2 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

⁸ 15 U.S.C. 78s(b)(2)(B).

ADRPLUS Fund, AstraZeneca PLC ADRPLUS Fund, Banco Santander, S.A. ADRPLUS Fund, BP P.L.C. ADRPLUS Fund, British American Tobacco p.l.c. ADRPLUS Fund, Diageo plc ADRPLUS Fund, GlaxoSmithKline plc ADRPLUS Fund, HSBC Holdings Plc ADRPLUS Fund, Mitsubishi UFJ Financial Group, Inc. ADRPLUS Fund, Novartis AG ADRPLUS Fund, Novo Nordisk A/S (B Shares) ADRPLUS Fund, Royal Dutch Shell plc (Class A) ADRPLUS Fund, Royal Dutch Shell plc (Class B) ADRPLUS Fund, Sanofi ADRPLUS Fund, SAP AG ADRPLUS Fund, Total S.A. ADRPLUS Fund, Toyota Motor Corporation ADRPLUS Fund, and Vodafone Group Plc ADRPLUS Fund. The Funds are a series of, and the Shares will be offered by, the Trust, which was organized as a Delaware statutory trust on August 27, 2010.⁹ Precidian Funds LLC (“Adviser”)¹⁰ will serve as the investment adviser to the Funds.¹¹ The Exchange has made the following representations and statements in describing the Funds and their investment

⁹ The Exchange represents that the Trust is registered with the Commission as an open-end management investment company and has filed a registration statement on behalf of the Funds on Form N-1A (“Registration Statement”) with the Commission. See Registration Statement on Form N-1A for the Trust, filed with the Commission on June 14, 2017 (File Nos. 333-171987 and 811-22524). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement.

¹⁰ The Exchange represents that the Commission has issued an order granting certain exemptive relief to the Adviser and open-end management companies advised by the Adviser under the Investment Company Act of 1940 (15 U.S.C. 80a-1). See Investment Company Act Release No. 32622 (May 2, 2017) (File No. 812-14584).

¹¹ According to the Exchange, the Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer. In addition, Adviser personnel who make decisions regarding a Fund’s portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund’s portfolio. In the event that (a) the 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 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 will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

strategies.¹²

A. Exchange’s Description of the ADRPLUS Funds

Each Fund seeks to provide investment results that correspond generally, before fees and expenses, to the price and yield performance of a particular American Depositary Receipt, hedged against fluctuations in the exchange rate between the U.S. dollar and the local currency of the foreign security underlying the American Depositary Receipt (“Local Currency”). The following chart lists the underlying company and the Local Currency for each of the Funds.

Fund Name	Underlying Company	Local Currency
Anheuser-Busch InBev SA/NV ADRPLUS Fund	Anheuser-Busch InBev SA/NV	Euro
AstraZeneca PLC ADRPLUS Fund	AstraZeneca PLC	British pound
Banco Santander, S.A. ADRPLUS Fund	Banco Santander, S.A.	Euro
BP P.L.C. ADRPLUS Fund	BP p.l.c.	British pound
British American Tobacco p.l.c. ADRPLUS Fund	British American Tobacco p.l.c.	British pound
Diageo plc ADRPLUS Fund	Diageo plc	British pound
GlaxoSmithKline plc ADRPLUS Fund	GlaxoSmithKline plc	British pound
HSBC Holdings Plc ADRPLUS Fund	HSBC Holdings Plc	British pound
Mitsubishi UFJ Financial Group, Inc. ADRPLUS Fund	Mitsubishi UFJ Financial Group, Inc.	Japanese yen
Novartis AG ADRPLUS Fund	Novartis AG	Swiss franc
Novo Nordisk A/S (B Shares) ADRPLUS Fund	Novo Nordisk A/S (B Shares)	Danish krone
Royal Dutch Shell plc (Class A) ADRPLUS Fund	Royal Dutch Shell plc (Class A)	Euro

¹² Additional information regarding the Funds, the Trust, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, calculation of net asset value (“NAV”), distributions, and taxes, among other things, can be found in Amendment No. 2 to the proposed rule change and the Registration Statement, as applicable. See supra notes 7 and 9, respectively.

Fund Name	Underlying Company	Local Currency
Royal Dutch Shell plc (Class B) ADRPLUS Fund	Royal Dutch Shell plc (Class B)	British pound
Sanofi ADRPLUS Fund	Sanofi	Euro
SAP AG ADRPLUS Fund	SAP AG	Euro
Total S.A. ADRPLUS Fund	Total S.A.	Euro
Toyota Motor Corporation ADRPLUS Fund	Toyota Motor Corporation	Japanese yen
Vodafone Group Plc ADRPLUS Fund	Vodafone Group Plc	British pound

Each of the Funds will hold only: (i) shares of an American Depositary Receipt (“Unhedged ADR”) listed on a U.S. national securities exchange; (ii) OTC currency swaps that hedge against fluctuations in the exchange rate (“Exchange Rate”) between the U.S. dollar and the Local Currency (“Currency Hedge”); and (iii) cash and cash equivalents.¹³

The Exchange states that the Funds will provide investors with the opportunity to easily eliminate currency exposure that they may not even realize exists with Unhedged ADRs without having to transact in the currency derivatives market. The Exchange believes that this confers a significant benefit to investors and the broader marketplace by adding transparency and simplifying the process of eliminating risk from an investor’s portfolio. As further described below in the section entitled Policy Discussion, the Exchange believes that the policy concerns

¹³ The Exchange states that for purposes of this filing and consistent with Rule 14.11(i)(4)(C)(iii), cash equivalents are short-term instruments with maturities of less than three months, that include only the following: (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.

underlying the listing rules which the Funds would or may not meet, specifically Rules 14.11(i)(4)(C)(i)(a)(3)-(4)¹⁴ and 14.11(i)(4)(C)(v),¹⁵ are mitigated by the structure, holdings, and purpose of the Funds.

The Trust is required to comply with Rule 10A-3 under the Act¹⁶ for the initial and continued listing of the Shares of each Fund. In addition, the Exchange represents that the Shares of each Fund will meet and be subject to all other requirements of the Generic Listing Rules, as defined below, and other applicable continued listing requirements for Managed Fund Shares under Exchange Rule 14.11(i), including those requirements regarding the Disclosed Portfolio (as defined in the Exchange rules) and the requirement that the Disclosed Portfolio and the NAV will be made available to all market participants at the same time,¹⁷ intraday indicative value,¹⁸ suspension of trading or removal,¹⁹ trading halts,²⁰ disclosure,²¹ firewalls,²² and surveillance.²³ Further, at least 100,000 Shares of each Fund will be outstanding upon the commencement of

¹⁴ The Exchange states that the Funds will not meet: (i) the requirement under Exchange Rule 14.11(i)(4)(C)(i)(a)(3) that the most heavily weighted component stock shall not exceed 30% of the equity weight of the portfolio; and (ii) the requirement under Exchange Rule 14.11(i)(4)(C)(i)(a)(4) that the equity portion of the portfolio shall include a minimum of 13 component stocks.

¹⁵ The Exchange states that the Funds may not meet the requirement under Exchange Rule 14.11(i)(4)(C)(v) that the aggregate gross notional value of OTC derivatives shall not exceed 20% of the weight of the portfolio (including gross notional exposures).

¹⁶ 17 CFR 240.10A-3.

¹⁷ See Exchange Rules 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

¹⁸ See Exchange Rule 14.11(i)(4)(B)(i).

¹⁹ See Exchange Rule 14.11(i)(4)(B)(iii).

²⁰ See Exchange Rule 14.11(i)(4)(B)(iv). The Exchange will also halt trading in a Fund where there has been a regulatory trading halt declared in the associated Unhedged ADR until trading in the Unhedged ADR resumes.

²¹ See Exchange Rule 14.11(i)(6).

²² See Exchange Rule 14.11(i)(7).

²³ See Exchange Rule 14.11(i)(2)(C).

trading.²⁴ The Exchange also provides that all statements and representations made in the filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference assets and intraday indicative values, and the applicability of Exchange listing rules specified in the filing will constitute continued listing requirements for the Funds. The Exchange states that the Trust, on behalf of the Funds, has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the 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. If a Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

B. Exchange's Policy Discussion

The Exchange believes that, while the Funds do not meet the Generic Listing Standards, in particular Rules 14.11(i)(4)(C)(i)(a)(3) and (4) and 14.11(i)(4)(C)(v), the policy issues that those rules are intended to address are otherwise mitigated by the structure, holdings, and purpose of the Funds.²⁵ The Exchange believes that Rule 14.11(i)(4)(C)(i)(a)(3) is intended to ensure that no single equity security constitutes too concentrated of a position in a series of Managed Fund Shares, and Rule 14.11(i)(4)(C)(i)(a)(4) is similarly intended to diversify the holdings of a series of Managed Fund Shares. The Exchange believes that these policy concerns are mitigated because: (i) the Unhedged ADR will meet the market cap and liquidity requirements of Rules 14.11(i)(4)(C)(i)(a)(1) and (2); and (ii) the intended function of the Funds

²⁴ See Exchange Rule 14.11(i)(4)(A)(i).

²⁵ The Exchange represents that each Fund expects to invest in excess of 95% of its net assets in the Unhedged ADRs, and each Fund expects that the gross notional value of the Currency Hedge would be equal to the value of the Unhedged ADRs, which would be approximately 50% of the weight of the portfolio (including gross notional exposures).

is to eliminate currency exposure risk for a single security, which means that the Funds are necessarily concentrated. The Exchange represents that the creation and redemption mechanism will provide a near frictionless arbitrage opportunity that would minimize the risk of manipulation of either the Unhedged ADR or the applicable Fund and, thus, mitigate the manipulation concerns that Rules 14.11(i)(4)(C)(i)(a)(3) and (4) were intended to address.

The Exchange also believes that the policy issues that Rule 14.11(i)(4)(C)(v) is intended to address are also mitigated by the way that the Funds would use OTC currency swaps.

According to the Exchange, the rule is intended to mitigate concerns around the manipulability of a particular underlying reference asset or derivatives contract and to minimize counterparty risk. While the Currency Hedge positions taken by the Currency Hedged ADRs would not meet the Generic Listing Standards related to OTC derivatives holdings, the Exchange believes that the policy concerns about limiting exposure to potentially manipulable underlying reference assets that the Generic Listing Standards are intended to address are otherwise mitigated by the liquidity in the underlying spot currency market that prevents manipulation of the reference prices used by the Currency Hedge. Further, the Exchange states that the Funds will attempt to limit counterparty risk in OTC currency swaps by: (i) entering into such contracts only with counterparties the Advisor believes are creditworthy; (ii) limiting a Fund's exposure to each counterparty; and (iii) monitoring the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis. The Exchange believes that counterparty risk associated with OTC currency swaps is further mitigated because the currency swaps are settled on a daily basis and, thus, the counterparty risk for any particular swap is limited in two ways – first, that the counterparty credit exposure is always limited to a 24 hour period and second, that

the exposure of the swap is only to the movement in the currencies over that same 24 hour period.

III. Proceedings to Determine Whether to Approve or Disapprove SR-CboeBZX-2018-019 and Grounds for Disapproval under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²⁶ to determine whether the proposed rule change, as modified by Amendment No. 2, should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²⁷ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest."²⁸

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written

²⁶ 15 U.S.C. 78s(b)(2)(B).

²⁷ Id.

²⁸ 15 U.S.C. 78f(b)(5).

views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.²⁹

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by [insert date 21 days from publication in the Federal Register]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [insert date 35 days from publication in the Federal Register]. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 2 to the proposed rule change,³⁰ in addition to any other comments they may wish to submit about the proposed rule change.

The Commission notes that the Exchange proposes to list and trade, pursuant to its Rule 14.11(i), Managed Fund Shares of Funds that would invest in shares of a single Unhedged ADR, along with a Currency Hedge and cash and cash equivalents. A proposal to list and trade Managed Fund Shares that are designed to reflect, generally, the price and performance of a single equity security, hedged against fluctuations in a given exchange rate, is novel. Accordingly, the Commission specifically seeks comment on whether it is appropriate to permit

²⁹ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding – either oral or notice and opportunity for written comments – is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

³⁰ See supra note 7.

the listing and trading of shares of an exchange-traded fund with underlying holdings concentrated in a single (or a few unique) equity securities. What impact, if any, would such shares have on the market for the underlying equity security (or securities)? What impact, if any, would such shares have on the equity markets more generally, especially if funds investing in a single equity security proliferate? Are the listing and trading of such shares consistent with the requirements of Section 6(b)(5) of the Act, which, among other things, requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest?

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-2018-019 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 Numbers SR-CboeBZX-2018-019. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be

withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of these filings 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-2018-019 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. Rebuttal comments should be submitted by [insert date 35 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Eduardo A. Aleman
Assistant Secretary

³¹ 17 CFR 200.30-3(a)(57).