

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT of 1934
[Release No. 34-90428 / November 13, 2020]

In the Matter of
Cboe BZX Exchange, Inc.
400 South LaSalle Street
Chicago, IL 60605
File No. SR-CboeBZX-2018-044

Order Setting Aside the Order by
Delegated Authority Disapproving
SR-CboeBZX-2018-044

On June 21, 2018, Cboe BZX Exchange, Inc. (“BZX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend BZX Rule 14.11(c) to permit either the portfolio holdings of a series of Index Fund Shares or the index underlying a series of Index Fund Shares to satisfy the listing standards under BZX Rules 14.11(c)(3), (4), and (5). The proposed rule change was published for comment in the Federal Register on July 11, 2018.³ On August 23, 2018, the Division of Trading and Markets (“Division”), for the Commission pursuant to delegated authority, extended the time period for Commission action on the proposed rule change.⁴ On September 28, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 83594 (July 5, 2018), 83 FR 32158.

⁴ See Securities Exchange Act Release No. 83919, 83 FR 44083 (August 29, 2018).

proposed rule change as originally filed.⁵ On October 5, 2018, the Division, for the Commission pursuant to delegated authority, published notice of Amendment No. 1 and instituted proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁷ On December 21, 2018, pursuant to Section 19(b)(2) of the Exchange Act,⁸ the Division, for the Commission pursuant to delegated authority, designated a longer period within which to issue an order approving or disapproving the proposed rule change, as modified by Amendment No. 1.⁹ On March 8, 2019, the Division, for the Commission pursuant to delegated authority,¹⁰ disapproved the proposed rule change, as modified by Amendment No. 1.¹¹

On March 18, 2019, the Acting Secretary of the Commission notified BZX that, pursuant to Commission Rule of Practice 431,¹² the Commission would review the Division's action pursuant to delegated authority and that the Division's action pursuant to delegated authority was

⁵ Amendment No. 1 is available at <https://www.sec.gov/comments/sr-cboebzx-2018-044/srcboebzx2018044-4468884-175849.pdf>.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 84378, 83 FR 51745 (October 12, 2018).

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Securities Exchange Act Release No. 84948, 83 FR 67785 (December 31, 2018).

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ See Securities Exchange Act Release No. 85278, 84 FR 9395 (March 14, 2019) (“Delegated Order”).

¹² 17 CFR 201.431.

stayed until the Commission orders otherwise.¹³ On April 17, 2019, the Commission issued a scheduling order allowing the filing of additional statements.¹⁴

On June 23, 2020, BZX withdrew the proposed rule change (SR-CboeBZX-2018-044).¹⁵

Under Commission Rule of Practice 431(a), the Commission may “affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, any action made pursuant to” delegated authority.¹⁶ We find that, in light of BZX’s withdrawal of the proposed rule change, it is appropriate to set aside the Delegated Order.

Accordingly, IT IS ORDERED that the March 8, 2019 order disapproving by delegated authority BZX’s proposed rule change number SR-CboeBZX-2018-044, be, and it hereby is, set aside.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

¹³ See letter from Vanessa A. Countryman, Acting Secretary, Commission, to Kyle Murray, Assistant General Counsel, BZX, dated March 18, 2019, available at <https://www.sec.gov/rules/sro/cboebzx/2019/cboebzx-2018-044-acknowledgement-letter-031819.pdf>.

¹⁴ See Securities Exchange Act Release No. 85682, 84 FR 18098 (April 29, 2019).

¹⁵ See letter from Kyle Murray, Vice President and Associate General Counsel, BZX, to Vanessa Countryman, Secretary, Commission, dated June 23, 2020, available at <https://www.sec.gov/comments/sr-cboebzx-2018-044/srcboebzx2018044-7340745-218668.pdf>.

¹⁶ 17 CFR 201.431(a).