

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82872; File No. SR-CboeBZX-2017-011)

March 14, 2018

Self-Regulatory Organizations; CboeBZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change to List and Trade the Common Shares of Beneficial Interest of the PowerShares Income Builder Portfolio, a Series of PowerShares Exchange-Traded Fund Trust II

I. Introduction

On December 1, 2017, CboeBZX Exchange, Inc. (“Exchange” or “BZX”) 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 the common shares of beneficial interest of the PowerShares Income Builder Portfolio (“Fund”), a series of PowerShares Exchange-Traded Fund Trust II (“Trust”), under BZX Rule 14.11(c)(3). The proposed rule change was published for comment in the Federal Register on December 20, 2017.³ On January 22, 2018, pursuant to Section 19(b)(2) of the Act,⁴ the Commission 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.⁵ On March 6, 2018, the Exchange filed Amendment No. 1 to the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 82328 (Dec. 14, 2017), 82 FR 60443 (Dec. 20, 2017).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 82559 (Jan. 22, 2018), 83 FR 3820 (Jan. 26, 2018).

proposed rule change.⁶ The Commission has received no comments on the proposal. The Commission is approving the proposed rule change, as modified by Amendment No. 1.

II. Exchange's Description of the Proposal⁷

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(c)(5), which governs the listing and trading of Index Fund Shares based on equity and fixed income securities. The Fund will be a passively managed, index-based exchange-traded fund ("ETF"), and it is a series of the Trust. The Trust is registered with the Commission as an open-end management investment company and has filed a post-effective amendment to its registration statement on Form N-1A ("Registration Statement") with the Commission.⁸ Invesco PowerShares Capital

⁶ In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange: (1) corrected certain references to its rules; (2) supplemented information regarding requirements applicable to investment advisers, including information with respect to firewalls and procedures designed to prevent the use and dissemination of material, nonpublic information regarding the Fund's portfolio; (3) corrected the definition and usage of certain defined terms; (4) clarified that the Fund will not be a leveraged or inverse-leveraged fund and will not use derivative instruments to enhance leverage; (5) conformed its representations regarding the calculation and dissemination of the Underlying Index (as defined herein) and information relating to trading halts in accordance with applicable BZX rules; (6) supplemented information regarding pricing availability with respect to holdings in non-exchange-listed securities of other investment companies; and (7) made other technical, non-substantive, and conforming changes. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-cboebzx-2017-011/cboebzx2017011-3206088-162013.pdf>.

⁷ A more detailed description of the Trust, the Fund, and the Shares, as well as information regarding the methodology of the Underlying Index (as defined herein), the Fund's portfolio holdings, and the Fund's investment restrictions are included in Amendment No. 1 to the proposed rule change and Registration Statement (as defined herein). See Amendment No. 1, *supra* note 6; Registration Statement, *infra* note 8 and accompanying text.

⁸ See Registration Statement on Form N-1A for the Trust, filed on July 31, 2017 (File Nos. 333-138490 and 811-21977). According to the Exchange, the Commission has issued an order granting certain exemptive relief ("Exemptive Order") with respect to the Trust

Management LLC will be the investment adviser (“Adviser”), and Invesco Advisers, Inc. will be the investment sub-adviser (“Sub-Adviser”), to the Fund. The Adviser and the Sub-Adviser are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to the broker-dealer affiliate regarding access to information concerning the composition of, or changes to, the Fund’s portfolio.

The Fund’s investment objective is to seek to track the investment results (before fees and expenses) of the Goldman Sachs Bond Buyers Equity Basket Index (“Underlying Index”). The Underlying Index is designed to measure the performance of a hypothetical portfolio of common equity stocks with an overlay of fully-collateralized written put options on those stocks. Solactive AG (“Calculation Agent”) maintains, calculates, and publishes the value of the Underlying Index on each business day. The Calculation Agent is not registered as an investment adviser or broker-dealer and is not affiliated with any broker-dealers. The Calculation Agent also has implemented and will maintain procedures designed to prevent the use and dissemination of material, nonpublic information regarding the Underlying Index as required under BZX Rule 14.11(c)(5)(A)(iii).

The Exchange states that it has submitted the proposed rule change because the Underlying Index for the Fund does not meet all of the listing requirements of BZX Rule 14.11(c)(5), which applies to Index Fund Shares based on an index that consists of both equity securities and fixed income securities. BZX Rule 14.11(c)(5) requires that the equity and fixed income component securities separately meet the criteria set forth in BZX Rules 14.11(c)(3) and (4), applicable to equity and fixed income securities indexes, respectively. Specifically, the Fund does not meet all of the listing requirements of BZX Rule 14.11(c)(5) because the

under the Investment Company Act of 1940 (“1940 Act”). See Investment Company Act Release No. 27841 (May 25, 2007) (File No. 812-13335).

Underlying Index partially consists of put options, in addition to equity and fixed income securities.

A. Description of the Underlying Index

The Underlying Index will consist of a mixture of: (1) 100 U.S. exchange-listed, large capitalization common stocks that have listed options traded on a U.S. exchange (“Stock Component”); (2) put options that are sold (“written”) on those same 100 stocks that make up the Stock Component (“Options Strategy”); and (3) Treasury bills (“Collateral”), which are intended to collateralize the Options Strategy. The selection of common stocks for the Stock Component, the selection of strike prices of the fully-collateralized put options for the Options Strategy, and the asset allocation between the Stock Component and Collateral are determined pursuant to the Underlying Index’s methodology.⁹ According to the Exchange, the Underlying Index is designed to obtain yield from three sources: (1) the dividends and returns on the common stocks in the Stock Component; (2) the premiums received from the put options sold via the Options Strategy;¹⁰ and (3) the yield from Treasury bills serving as Collateral.¹¹

⁹ A more detailed description of the methodology of the Underlying Index can be found in Amendment No. 1 to the proposed rule change and Registration Statement. See supra note 7.

¹⁰ A put option seller will incur a loss if the put option expires in-the-money at the expiration date or if the in-the-money put option is exercised by the option holder and, in each case, the in-the-money amount is greater than the purchase price of the put option (“premium”) collected by the put option seller. A put option seller will recognize a realized gain if the put option expires “out of the money” (i.e., the underlying stock price is below the put option strike price).

¹¹ The amount of the premiums received from selling options largely involves the level of implied volatility of the underlying reference security: the measurement of how much the market price of the underlying reference security historically varied from day to day over a specific period of time. The higher the implied volatility, the more likely the underlying reference security will experience large price changes. Another factor bearing on the put option premium is the time value of the options. The more time that remains until the expiration date of the option, the greater the amount of time that an option trade has to become profitable due to a favorable move in the underlying reference security. As a

The Options Strategy writes or sells put options on the 100 stocks included in the Stock Component. Those put options are standardized options listed and traded on U.S. exchanges and will have terms of at least six but no more than eighteen months as of each quarterly rebalance date. The strike price for each put option will be selected, in accordance with the Underlying Index's methodology, at an amount that will generate a premium that (when annualized) is as close as possible to the expected return of the underlying stock. The put options related to the Options Strategy will have expirations between six and eighteen months. All put options in the Underlying Index are fully collateralized with Treasury bills in an amount equal to the outstanding notional value of the put options. The Collateral may also include the premiums collected on the put options.

The Underlying Index is rebalanced quarterly in March, June, September, and December, typically on the Friday before the third Saturday of the month ("rebalance date"). The 100 common stocks to be included in the Stock Component are made available one week prior to the rebalance date. The put option strike prices and weights of the Underlying Index's components will be made available prior to the end of the business day on the rebalance date.

B. Description of the Fund

Under normal market conditions,¹² the Fund will seek to achieve its investment objective by generally investing at least 90% of its total assets in the components of the Underlying

result, investors are willing to pay a higher premium for more time until the expiration date of an option (and conversely, as the expiration date of an option approaches, the market price of the option decreases, and down to zero if the option remains out-of-the-money on the expiration date of the option).

¹² The term "normal market conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

Index.¹³ The Fund will use an “indexing” investment approach to seek to achieve its investment objective. The Adviser will seek a correlation over time of 0.95 or better between the Fund’s performance and the performance of the Underlying Index (a correlation of 1.00 would represent perfect correlation).¹⁴ The Fund generally will employ a “full replication” methodology, meaning that generally it will seek to invest in all of the components of the Underlying Index (i.e., all of the stocks in the Stock Component, the Options Strategy, and the Collateral for the put options) in proportion to their weightings in the Underlying Index. However, under various circumstances, it may not be possible or practicable for the Fund to purchase all of the components of the Underlying Index in the same weightings as the Underlying Index. In those circumstances, the Fund may purchase a representative sample of securities in the Underlying Index in pursuing its investment objective.¹⁵

¹³ The Fund will operate as an index fund and will not be actively managed. Therefore, the Fund will not adopt temporary defensive strategies. It will continue to invest at least 90% of its assets in the components of the Underlying Index, in accordance with the terms of its Exemptive Order, even during unusual market conditions, including extreme volatility or trading halts in the financial markets generally.

¹⁴ Another means of evaluating the relationship between the returns of the Fund and the Underlying Index is to assess the “tracking error” between the two. Tracking error means the variation between the Fund’s annual return and the return of the Underlying Index, expressed in terms of standard deviation. The Fund seeks to have a tracking error of less than 5%, measured on a monthly basis over a one-year period by taking the standard deviation of the difference in the Fund’s returns versus the Underlying Index’s returns.

¹⁵ A “sampling” methodology means that the Adviser (or Sub-Adviser) will use a quantitative analysis to select component securities of the Underlying Index for the Fund’s portfolio that are a representative sample of securities that have, in the aggregate, investment characteristics similar to the Underlying Index in terms of key risk factors, performance attributes and other characteristics. These include industry weightings, market capitalization, return variability, earnings valuation, yield and other financial characteristics of securities. When employing a sampling methodology, the Adviser (or Sub-Adviser) bases the quantity of holdings in the Fund on a number of factors, including asset size of the Fund, and generally expects the Fund to hold less than the total number of securities in the Underlying Index. However, the Adviser (or Sub-Adviser) reserves the right to invest the Fund in as many securities as it believes necessary to achieve the Fund’s investment objective.

After investing at least 90% of its total assets in components of the Underlying Index, the Fund may invest up to 10% of its total assets in the following: (i) exchange-traded U.S. equity securities not included in the Underlying Index, but which the Adviser or Sub-Adviser believes will help the Fund to track the Underlying Index;¹⁶ (ii) high quality securities issued or guaranteed by the U.S. government (in addition to Treasury bills) and non-U.S. governments, and each of their agencies and instrumentalities; (iii) money market instruments, including repurchase agreements or other funds which invest exclusively in money market instruments (subject to applicable limitations under the 1940 Act, or exemptions therefrom);¹⁷ (iv) convertible securities; (v) structured notes;¹⁸ (vi) securities of other investment companies (including affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, and other ETFs) beyond the limits permitted under the 1940 Act, subject to certain terms and conditions set forth in a Commission exemptive order issued to the Trust pursuant to Section 12(d)(1)(J) of the 1940 Act; and (vii) over-the-counter (“OTC”) options.¹⁹

¹⁶ For example, there may be instances in which the Adviser or Sub-Adviser may choose to purchase or sell securities not in the Underlying Index which the Adviser or Sub-Adviser believes are appropriate to substitute for one or more Underlying Index components in seeking to replicate, before fees and expenses, the performance of the Underlying Index.

¹⁷ The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral.

¹⁸ Structured notes are derivative securities for which the amount of principal repayment or interest payments is based on the movement of one or more factors, including but not limited to, currency exchange rates, interest rates (such as the prime lending rate or LIBOR), referenced bonds, and stock indices.

¹⁹ The Fund may use OTC options, together with positions in cash and money market instruments, to simulate full investment in the Underlying Index. The Fund will only enter into OTC options with counterparties that the Adviser or Sub-Adviser reasonably believes are capable of performing under the contract, and the Fund will post collateral as required by the counterparty and applicable regulations. The Adviser or Sub-Adviser will attempt to mitigate the Fund’s respective credit risk by transacting, where possible, with large, well-capitalized institutions using measures designed to determine the

The Fund may hold up to an aggregate amount of 15% of its net assets (calculated at the time of investment) in assets deemed illiquid by the Adviser or Sub-Adviser.²⁰ The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets. The Fund will not be a leveraged or inverse leveraged fund and will not use derivative instruments to enhance leverage.²¹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable

creditworthiness of the counterparty. The Adviser and Sub-Adviser will evaluate the creditworthiness of counterparties on a regular basis. In addition to information provided by credit agencies, the Adviser and Sub-Adviser will review approved counterparties using various factors, which may include the counterparty's reputation, the Adviser's or Sub-Adviser's past experience with the counterparty, and the price and market actions of debt of the counterparty. The Fund may also use various techniques to minimize credit risk, including early termination or reset and payment, using different counterparties, and limiting the net amount due from any individual counterparty. However, the risk of losses to the Fund resulting from counterparty default is still possible.

²⁰ In reaching liquidity decisions, the Adviser or Sub-Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

²¹ The Exchange states that the Fund's investments will be consistent with the Fund's investment objective. The Fund does not presently intend to engage in any form of borrowing for investment purposes, and will not be operated as a "leveraged ETF" or "inverse leveraged ETF," i.e., it will not be operated in a manner designed to seek a multiple or an inverse multiple of the performance of an underlying reference index.

to a national securities exchange.²² In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,²³ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

Under the proposal, the Exchange represents that, under normal market conditions, the Fund will hold a substantial amount (at least 90%) of its net assets in the components of the Underlying Index, which includes: (1) the Stock Component, consisting of 100 U.S. exchange-listed, large capitalization common stocks that have listed options traded on a U.S. exchange; (2) the Options Strategy, consisting of standardized put options listed and traded on U.S. exchanges and that are sold on those same 100 stocks that make up the Stock Component; and (3) Collateral consisting of Treasury bills intended to collateralize the Options Strategy. According to the Exchange, the Shares will be listed and traded on the Exchange pursuant to the listing criteria in BZX Rule 14.11(c)(5) and will therefore comply with all of the requirements therein, except that the Underlying Index will consist, in part, of U.S. exchange listed written put options based on U.S. exchange-listed equity securities.

The Exchange represents that the Stock Component and the Collateral component will satisfy the applicable listing requirements under BZX Rule 14.11(c), including BZX Rules 14.11(c)(3) and (4) relating to equity and fixed income securities index components, respectively. The Commission notes that, with respect to the Options Strategy, all of the

²² In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²³ 15 U.S.C. 78f(b)(5).

standardized put options will be listed and traded on U.S. exchanges, all of which are members of the Intermarket Surveillance Group (“ISG”). In addition, all of the equity securities included in the Stock Component will be listed and traded on U.S. exchanges, all of which are members of ISG. The Commission further notes that, according to the proposal, the Fund will be subject to the other requirements as set forth in Exchange rules applicable to Index Fund Shares, including, but not limited to, requirements relating to the dissemination of key information such as the Net Asset Value, the Intraday Indicative Value, rules governing the trading of equity and fixed income securities, firewalls, trading hours, and trading halts.

Under the proposal, the value of the Underlying Index will be calculated and widely disseminated at least once every 15 seconds during Regular Trading Hours²⁴ and will be available from major market data vendors, provided however, that with respect to the fixed income components of the Underlying Index, the impact on the Underlying Index will be updated and widely disseminated at least once daily.²⁵ Further, an Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Exchange’s Regular Trading Hours. The Fund’s portfolio holdings will be disclosed on the Fund’s website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.²⁶

Quotation and last-sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority.

²⁴ The Exchange’s “Regular Trading Hours” are between 9:30 a.m. and 4:00 p.m. Eastern Time. See BZX Rule 1.5(w).

²⁵ See BZX Rule 14.11(c)(5)(A)(ii).

²⁶ See BZX Rule 14.11(c)(1)(B)(iv).

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments will be readily available from the exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Quotation information from brokers and dealers or pricing services will be available for U.S. government obligations, high quality securities issued or guaranteed by the U.S. government (in addition to Treasury bills) and non-U.S. governments, and each of their agencies and instrumentalities, money market instruments, convertible securities, structured notes, non-exchange-listed securities of other investment companies, and OTC options.

The Commission also believes that the proposal is designed to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange states that trading in the Shares may be halted for market conditions or for reasons that, in the view of the Exchange, make trading inadvisable. Similarly, trading in the Shares will be halted if an interruption to the dissemination of either of the Intraday Indicative Value or the value of the Underlying Index persists past the trading day in which it occurred. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and made available to all market participants at the same time.²⁷ If the Exchange becomes aware that the NAV for the Shares is not being disseminated to all market participants at the same time or the daily public website disclosure of portfolio holdings does not occur, the Exchange will halt trading in the Shares.²⁸

The Exchange has represented that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange has

²⁷ See BZX Rule 14.11(c)(9)(A)(ii).

²⁸ See BZX Rule 14.11(c)(1)(b)(iv).

also represented that it may obtain information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund via the ISG from other exchanges that are members of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The Exchange has represented that all statements and representations made in this filing regarding the Underlying Index composition; the description of the portfolio or reference assets; limitations on portfolio holdings or reference assets; dissemination and availability of the Underlying Index, reference asset, and intraday indicative values; and the applicability of Exchange 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 Fund 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 the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under BZX Rule 14.12. This approval order is based on all of the Exchange's statements and representations, including those set forth above and in Amendment No. 1 to the proposed rule change.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act²⁹ and the rules and regulations thereunder applicable to a national securities exchange.

²⁹ 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,³⁰ that the proposed rule change (SR-CboeBZX-2017-011), as modified by Amendment No. 1 be, and it hereby is, approved.

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

Eduardo A. Aleman
Assistant Secretary

³⁰ 15 U.S.C. 78s(b)(2).

³¹ 17 CFR 200.30-3(a)(12).