

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80529; File No. SR-BatsBZX-2017-14)

April 26, 2017

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 3 and 5, to List and Trade Shares of the Amplify YieldShares Oil Hedged MLP Fund, a Series of the Amplify ETF Trust, under BZX Rule 14.11(i), Managed Fund Shares

I. Introduction

On February 17, 2017, Bats BZX 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” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the Amplify YieldShares Oil Hedged MLP Fund (“Fund”), a series of the Amplify ETF Trust (“Trust”). The proposed rule change was published for comment in the Federal Register on March 7, 2017.³ On March 30, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.⁴ On April 7, 2017, the Exchange filed Amendment No. 3 to the proposed rule change,⁵ and on April 24, 2017, the Exchange filed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 34-80136 (March 1, 2017), 82 FR 12860.

⁴ The Exchange filed and withdrew Amendment No. 1 on March 30, 2017. Amendment No. 2 replaced the original filing in its entirety.

⁵ In Amendment No. 3, which amended and replaced the proposed rule change, as modified by Amendment No. 2, in its entirety, the Exchange: (a) added representations clarifying that the proposed rule change will constitute continued listing requirements for listing Shares on the Exchange; (b) added representations that the Fund will conform with certain requirements applicable to Managed Fund Shares; and (c) made other technical and clarifying amendments. Because Amendment No. 3 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. 3 is available at <https://www.sec.gov/comments/sr-batsbzx-2017-14/batsbzx201714-1692102-149689.pdf>.

Amendment No. 5 to the proposed rule change.⁶ The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 3 and 5.

II. Exchange's Description of the Proposal

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Trust, which is registered with the Commission as an investment company and has filed a Registration Statement on Form N-1A with the Commission.⁷

The Exchange states that the Fund will invest in equity securities of energy master limited partnerships ("MLPs") and selectively hedge its positions to limit the correlation of its performance to the price of West Texas Intermediate Crude Oil ("WTI Crude Oil"). WTI Crude Oil, also known as Texas light sweet, is a grade of crude oil used as a benchmark in oil futures contracts pricing. According to the Exchange, the Fund will seek to exceed the performance of the Oil Hedged MLP Index ("Benchmark")⁸ by actively selecting its investments from the underlying components of the Benchmark. The Exchange represents that the Fund is not an index tracking exchange-traded fund and is not required to invest in all of the components of the Benchmark. However, the Exchange states that generally, the Fund will seek to hold similar

⁶ The Exchange filed Amendment No. 4 on April 19, 2017, and withdrew it on April 24, 2017. In Amendment No. 5, the Exchange: (1) clarified how the composition of the Fund's holdings would be calculated; and (2) provided additional detail regarding the historical average daily contract volume for WTI Crude Oil Futures (as defined below). Because Amendment No. 5 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. 5 is available at <https://www.sec.gov/comments/sr-batsbzx-2017-14/batsbzx201714-1719288-150433.pdf>.

⁷ See Post-Effective Amendment No. 27 to Registration Statement on Form N-1A for the Trust, dated January 6, 2017 (File Nos. 333-207937 and 811-23108).

⁸ The Benchmark is developed, maintained, and sponsored by ETP Ventures LLC.

instruments to those in the Benchmark and will therefore invest in MLPs and short exposure oil futures contracts included in the Benchmark.

The Exchange represents that it submitted the proposal in order to allow the Fund to hold listed derivatives, specifically WTI Crude Oil futures traded on the New York Mercantile Exchange and ICE Futures Europe (“WTI Crude Oil Futures”), in a manner that would exceed the limitations of BZX Rule 14.11(i)(4)(C)(iv)(b), which prevents, among other things, a series of Managed Fund Shares from holding listed derivatives based on any single underlying reference asset in excess of 30 percent of the weight of its portfolio (including gross notional exposures) (“30% Limitation”).⁹ Namely, the Exchange proposes to allow the Fund to hold up to 50 percent of the weight of its portfolio (including gross notional exposures) in WTI Crude Oil Futures. Notwithstanding this, the Exchange also states that, in order to achieve its investment objective, under Normal Market Conditions,¹⁰ the Fund will invest at least 80 percent of its total assets in equity securities of MLPs and up to 20 percent of its total assets in fixed income

⁹ BZX Rule 14.11(i)(4)(C)(iv)(b) requires that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets to not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset to not exceed 30% of the weight of the portfolio (including gross notional exposures). The Exchange states that the proposal is to allow the Fund to exceed the specific requirement of BZX Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures). According to the Exchange, the Fund will meet the other requirement of BZX Rule 14.11(i)(4)(C)(iv)(b).

¹⁰ As defined in BZX Rule 14.11(i)(3)(E), 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.

securities, cash, and the cash value¹¹ of futures positions.¹² The Exchange notes that this is different than the calculation used to measure the Fund's holdings in WTI Crude Oil Futures as it relates to the Fund holding up to 50 percent of the weight of its portfolio, which includes gross notional exposures gained through the WTI Crude Oil Futures in both the numerator and denominator, which is consistent with the derivatives exposure calculation under BZX Rule 14.11(i)(4)(C)(iv).

According to the Exchange, allowing the Fund to hold a greater portion of its portfolio in WTI Crude Oil Futures than would be permitted under the 30% Limitation would reduce the Fund's operational burden, mitigate the Fund's dependency on holding over-the-counter ("OTC") instruments, and reduce counter-party risk associated with holding OTC instruments. The Exchange notes that the Fund may also hold certain fixed income securities and cash and cash equivalents in compliance with BZX Rules 14.11(i)(4)(C)(ii) and (iii) in order to collateralize its derivatives positions.

The Exchange represents that, except for the 30% Limitation, the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under BZX Rule 14.11(i).

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares, as modified by Amendment Nos. 3 and 5, is consistent with the Exchange Act and

¹¹ The Exchange states that the cash value of futures positions is based on the value of the Fund's daily margin account with the applicable futures exchange(s).

¹² The Exchange states that the combination of MLPs, fixed income securities, cash, and the cash value of futures positions will constitute the entirety of the Fund's holdings.

the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,¹⁴ 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.

The Commission notes that, according to the Exchange, the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i), with the exception of the 30% Limitation. According to the Exchange, the liquidity in the WTI Crude Oil Futures mitigates the concerns that Rule 14.11(i)(4)(C)(iv)(b) is intended to address and that such liquidity would prevent the Shares from being susceptible to manipulation.¹⁵ In addition, the Exchange represents 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 further represents that all of the futures contracts held by the Fund will trade on markets that are members of the Intermarket Surveillance Group ("ISG") or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, the Exchange represents that it may obtain information regarding trading in the Shares and the

¹³ 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).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ According to the Exchange, as of January 31, 2017, the average daily contract volume combined on the New York Mercantile Exchange and ICE Futures Europe over the last year was 558,353, 307,289, and 110,208, respectively, for the front, second, and third month WTI Crude Oil Futures contracts. At today's price levels, that equates to an average daily traded notional of approximately \$29.4 billion, \$16.2 billion, and \$5.8 billion for the first, second, and third month contracts, respectively.

underlying futures contracts held by the Fund via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.¹⁶

The Exchange states that the Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Fund. The Exchange further represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares including, but not limited to, requirements relating to the dissemination of key information such as the Disclosed Portfolio,¹⁷ net asset value, and the Intraday Indicative Value,¹⁸ and rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules.

The Exchange represents that all statements and representations made in the filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the 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 the Fund or the

¹⁶ For a list of the current members and affiliate members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

¹⁷ See BZX Rule 14.11(i)(4)(B)(ii).

¹⁸ See BZX Rule 14.11(i)(4)(B)(i).

Shares are 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 representations and description of the Fund, including those set forth above and in Amendment Nos. 3 and 5 to the proposed rule change. The Commission notes that the Shares must comply with the requirements of BZX Rule 14.11(i), other than the 30% Limitation, to be listed and traded on the Exchange on an initial and continuing basis.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 3 and 5, is consistent with Section 6(b)(5) of the Exchange Act¹⁹ and the rules and regulations thereunder applicable to a national securities exchange.

¹⁹ 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Exchange Act,²⁰ that the proposed rule change (SR-BatsBZX-2017-14), as modified by Amendment Nos. 3 and 5, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

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Assistant Secretary

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).