

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82217; File No. SR-CboeBZX-2017-005)

December 5, 2017

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to List and Trade Shares of a Series of the Cboe Vest S&P 500 Buffer Protect Strategy ETF Under the ETF Series Solutions Trust, Under Rule 14.11(c)(3), Index Fund Shares

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 21, 2017, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 filed a proposal to list and trade shares of a series of the Cboe Vest S&P 500[®] Buffer Protect Strategy ETF under the ETF Series Solutions Trust (the “Trust”), under Rule 14.11(c)(3) (“Index Fund Shares”).

The text of the proposed rule change is available at the Exchange’s website at www.markets.cboe.com, at the principal office of the Exchange, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of each series of the Cboe Vest S&P 500[®] Buffer Protect Strategy ETF (each a “Fund” and, collectively, the “Funds”) under Rule 14.11(c)(3), which governs the listing and trading of Index Fund Shares based on equity securities indexes on the Exchange. In total, the Exchange is proposing to list and trade Shares of twelve monthly series of the Cboe Vest S&P 500[®] Buffer Protect Strategy ETF. Each Fund will be an index-based exchange traded fund (“ETF”). The Funds will include the following: Cboe Vest S&P 500[®] Buffer Protect Strategy (January) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (February) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (March) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (April) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (May) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (June) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (July) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (August) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (September) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (October) ETF; Cboe Vest S&P 500[®] Buffer Protect Strategy (November) ETF; and Cboe Vest S&P 500[®] Buffer Protect Strategy (December) ETF. Each Fund will be based on the Cboe S&P 500 Buffer Protect Index (Month) Series, where “Month” is the corresponding month associated with the roll date of the applicable Fund (each an “Index” and, collectively, the “Indexes”).

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on February 9, 2012. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Funds on Form N-1A (“Registration Statement”) with the Commission.³ The Funds’ adviser, Cboe Vest Financial, LLC (the “Adviser”), and index provider, Cboe Exchange, Inc. (“Cboe Options” or the “Index Provider”), are not registered as broker-dealers, but are affiliated with a broker-dealer. The Index Provider has implemented and will maintain a “fire wall” with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the Indexes. In addition, Index Provider personnel who make decisions regarding the Index composition or methodology are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Index, pursuant to Rule 14.11(c)(3)(B)(iii). The Adviser has also implemented and will maintain a “fire wall” with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the portfolio. 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 a Fund’s portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another 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 a fire wall with respect to its relevant personnel or such

³ See Registration Statement on Form N-1A for the Trust, dated October 24, 2017 (File Nos. 333-179562 and 811-22668). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has not yet issued an order granting exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) applicable to the activities of the Funds, but the Funds will not be listed on the Exchange until such an order is issued and any conditions contained therein are satisfied [sic]

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.

The Exchange also notes that the Adviser is a BZX Affiliate as defined in Rule 14.3(e)(1)(A),⁴ but the Funds are not Affiliate Securities, as defined in Rule 14.11(e)(1)(B),⁵ and are therefore not subject to the additional requirements applicable to Affiliate Securities because such definition explicitly excludes Index Fund Shares. The Funds intend to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

Each Fund's investment objective is to track, before fees and expenses, the performance of its respective Index. The value of each Index is calculated daily by Cboe Options utilizing an option valuation model. The Exchange is submitting this proposed rule change because the Indexes for the Funds do not meet the listing requirements of Rule 14.11(c)(3) applicable to an index that consists of equity securities (and with respect to this underlying index, an index that consists of options on an index of U.S. Component Stocks),⁶ which requires that each component

⁴ As defined in Rule 14.3(e)(1)(A), the term "BZX Affiliate" means the Exchange and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Exchange, where "control" means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

⁵ As defined in Rule 14.3(e)(1)(B), the term "Affiliate Security" means any security issued by a BZX Affiliate or any Exchange-listed option on any such security, with the exception of Portfolio Depository Receipts as defined in Rule 14.11(b) and Index Fund Shares as defined in Rule 14.11(c).

⁶ As defined in Rule 14.11(c)(1)(D), the term "U.S. Component Stock" shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depository receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

of an index be a U.S. Component Stock. As further described below, the Indexes consist of options on an index of U.S. Component Stocks. Because the Indexes consist of options based on an index of U.S. Component Stocks (the S&P 500 Index) and Rule 14.11(c)(3)(A)(i) applies only to U.S. Component Stocks (that is, the rule provides criteria for an index composed of equity securities and not for an index that includes options on an index of equity securities), it does not meet the criteria set forth in Rule 14.11(c)(3). As such, the Exchange submits this proposal to list the Shares on the Exchange.

Cboe Vest S&P 500[®] Buffer Protect Index

Each Index is a rules-based options index that consists exclusively of FLEXible EXchange Options on the S&P 500 Index (“FLEX Options”) listed on Cboe Options.⁷ The Indexes are designed to provide exposure to the large capitalization U.S. equity market with lower volatility and downside risks than traditional equity indices, except in environments of rapid appreciation in the U.S. equity market over the course of one year. On a specified day of the applicable month for each Index (the “Roll Date”),⁸ the applicable Index implements a portfolio of put and call FLEX Options with expirations on the next Roll Date that, if held to such Roll Date, seeks to “buffer protect” against the first 10% decline in the value of the S&P 500 Index, while providing participation up to a maximum capped gain in the value of the S&P 500 Index (the “Capped Level”). The Capped Level is calculated as of each Roll Date based on the prices of the

⁷ More information about the Indexes and methodology is available on the Index Provider’s website at www.cboe.com.

⁸ As described above, each of the twelve Indexes are designed to provide returns over a defined year long period and, thus, there is an Index associated with each month. As such, the Roll Date for a specific Index is dependent on the monthly series for which the index is associated. For example, the Roll Date for the Cboe[®] S&P 500[®] Buffer Protect Index January Series is in January and the Roll date for the Cboe[®] S&P 500[®] Buffer Protect Index February Series is in February, a pattern which continues through the rest of the calendar year.

applicable FLEX Options, such that the value of the portfolio of FLEX Options that comprises each Index is equivalent to the value of a portfolio comprised of the S&P 500 Index constituents. As of the 2017 Roll Date, the Capped Level for the January Index was 11%, meaning that the January Index is designed to provide participation up to a maximum 11% gain in the value of the S&P 500 Index from the 2017 Roll Date to the 2018 Roll Date, but to not provide any participation for gains in the S&P 500 Index in excess of 11%.

Each Index is designed to provide the following outcomes between Roll Dates:

- If the S&P 500 declines more than 10%: the Index declines 10% less than the S&P 500 Index (e.g., if the S&P 500 Index returns -35%, the Index is designed to return -25%);
- If the S&P 500 declines between 0% and 10%: the Index provides a total return of zero (0%);
- If the S&P 500 appreciates between 0% and the Capped Level: the Index appreciates the same amount as the S&P 500 Index; and
- If the S&P 500 appreciates more than the Capped Level: the Index appreciates by the amount of the Capped Level.

Each Index includes a mix of purchased and written (sold) put and call FLEX Options structured to achieve the results described above. Such results are only applicable for each full 12-month period from one Roll Date to the next Roll Date, and the Index may not return such results for shorter or longer periods. The value of each Index is calculated daily by Cboe Options utilizing a rules-based options valuation model.

Fund Holdings

Under Normal Market Conditions,⁹ each Fund will seek to track the total return performance, before fees and expenses, of its respective Index. Under Normal Market Conditions, each Fund will invest all, or substantially all, of its assets in the FLEX Options that make up each respective underlying Index, standardized U.S. exchange-listed options contracts based on the S&P 500 (“S&P 500 Index Options”), U.S. exchange-listed options based on one or more ETFs¹⁰ that track the performance of the S&P 500 Index and have the same economic characteristics as the FLEX Options that make up each Index (“Comparable ETF Options”),¹¹ as well as cash and cash equivalents.¹² Under Normal Market Conditions, at least 80% of each Fund’s total assets (exclusive of any collateral held from securities lending) will be invested in the FLEX Options that make up the Index. The Funds will hold only FLEX Options, standardized exchange-listed options on the S&P 500 Index, Comparable ETF Options, and cash

⁹ 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.

¹⁰ For purposes of this proposal, the term ETF means Portfolio Depositary Receipts and Index Fund Shares as defined in Rule 14.11(b) and 14.11(c), respectively, and their equivalents on other national securities exchanges.

¹¹ The term “Comparable ETF Options” will at any time include only the five ETFs based on the S&P 500 Index with the greatest options consolidated average daily exchange trading volume for the previous quarter.

¹² For purposes of this filing, cash equivalents are short-term instruments with maturities of less than three months, including: (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.

and cash equivalents. The FLEX Options owned by each Fund will have the same terms (i.e. same strike price and expiration) for all investors of that Fund within an outcome period. The Capped Level is determined with respect to the applicable Index on the inception date of the applicable Fund and at the beginning of each outcome period.

S&P 500 Index Options

The market for S&P 500 Index Options traded on Cboe Options, including FLEX Options, is among the most liquid markets in the world. FLEX Options are a subset of S&P 500 Index options traded on Cboe Options.¹³ In 2016, 1,023,623 options contracts on the S&P 500 Index were traded per day on Cboe Options, which is more than \$200 billion in notional volume traded on a daily basis.¹⁴ While FLEX Options are traded differently than traditional options contracts, the Exchange believes that the liquidity and arbitrage opportunities of the S&P 500 Index bolsters the market for FLEX Options, as described below.

Every FLEX Option order submitted to Cboe Options is exposed to a competitive auction process for price discovery. The process begins with a request for quote (“RFQ”) in which the interested party establishes the terms of the FLEX Options contract. The RFQ solicits interested market participants, including on-floor market makers, remote market makers trading electronically, and member firm traders, to respond to the RFQ with bids or offers through a competitive process. This solicitation contains all of the contract specifications—underlying, size, type of option, expiration date, strike price, exercise style and settlement basis. During a specified amount of time, responses to the RFQ are received and at the end of that time period,

¹³ See <https://www.theocc.com/webapps/flex-reports>. Unless otherwise noted, all statistics provided herein are based on information from the Options Clearing Corporation (“OCC”).

¹⁴ As of July 24, 2017, FLEX Options had open interest of 349,596 contracts, which equates to approximately \$86 billion in notional interest.

the initiator can decide whether to accept the best bid or offer. The process occurs under the rules of Cboe Options which means that customer transactions are effected according to the principles of a fair and orderly market following trading procedures and policies developed by Cboe Options.

Additional Discussion

The Exchange believes that sufficient protections are in place to protect against market manipulation of each Fund's Shares and S&P 500 Index Options and Comparable ETF Options for several reasons: (i) the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index;¹⁵ (ii) the competitive quoting process for FLEX Options;¹⁶ (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options and the Financial Industry Regulatory Authority ("FINRA") designed to detect violations of the federal securities laws and self-regulatory organization ("SRO") rules.

Trading in the Shares and the underlying investments will be subject to the federal securities laws and Exchange, Cboe Options, FINRA, and, with respect to the Comparable ETF Options, other U.S. options exchanges' rules and surveillance programs.¹⁷

¹⁵ The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

¹⁶ Intraday quotations and last sale information for FLEX Options are available directly from Cboe Options or through the Options Price Reporting Authority. Additionally, information about existing outstanding interest in FLEX Options is available on the OCC's website.

¹⁷ The Exchange notes that Cboe Options is a member of the Option Price Regulatory Surveillance Authority, which was established in 2006, to provide efficiencies in looking

The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of FLEX Options on the S&P 500 Index, will be acquired in extremely liquid and highly regulated markets,¹⁸ the Shares are less readily susceptible to manipulation.

The Exchange believes 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. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and Index, (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 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. If a Fund or Shares are not in compliance with the applicable listing requirements, then, with respect

for insider trading and serves as a central organization to facilitate collaboration in insider trading and investigations for the U.S. options exchanges. For more information, see <http://www.cboe.com/aboutcboe/legal/departments/orsareg.aspx>.

¹⁸ All exchange-listed securities that the Funds may hold will trade on a market that is a member of the Intermarket Surveillance Group ("ISG") and the Funds will not hold any non-exchange-listed equities or options, however, not all of the components of the portfolio for the Funds may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. For a list of the current members of ISG, see www.isgportal.org.

to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. 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.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, S&P 500 Index Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, S&P 500 Index Options, including FLEX Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of a Fund's Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in a Fund's Shares would present manipulation concerns. Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).¹⁹ Each Fund's investments will not be used to seek performance that is the multiple or inverse multiple (i.e. 2x or -2x) of the Index. Each Fund's use of derivative instruments will be collateralized.

The Exchange represents that, except as described above, each Fund will meet each of the initial and continued listing criteria in BZX Rule 14.11(c)(3) with the exception of meeting the requirements of Rule 14.11(c)(3)(A)(i), applicable to the listing of Index Fund Shares based upon an index of "U.S. Component Stocks." The Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Funds. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. In addition, the Exchange represents that the Shares of each Fund will comply with all other

¹⁹ The Funds will each include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. See 15 U.S.C. 80a-18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

requirements applicable to Index Fund Shares, which includes requirements relating to the dissemination of key information such as the Index value,²⁰ the Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, firewalls for the Index Provider and Adviser, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules.

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. RFQ information for FLEX Options will be available directly from Cboe Options. The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on Treasury bills and other cash equivalents is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. On each business day, before commencement of trading in the Shares on the Exchange during Regular Trading Hours, the portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day will be provided on the Advisor's website at www.cboeinvest.com.

2. Statutory Basis

²⁰ Rule 14.11(c)(3)(B)(ii) requires that the index value must be disseminated by one or more major market data vendors at least once every 15 seconds during regular market session, provided however, that if the index value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated index value must remain available throughout the Exchange's trading hours. The value of the Indexes will not change during the period when trading is occurring on the Exchange and the last official calculated index value will remain available throughout the Exchange's trading hours.

The Exchange believes that the proposal is consistent with Section 6(b) of the Act²¹ in general and Section 6(b)(5) of the Act²² 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 the proposed rule change 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 in that the Shares of the Funds will meet each of the initial and continued listing criteria required by BZX Rule 14.11(c)(3), which includes the listing requirements for an index that is composed of equity securities, except that the Indexes consist of options on an index of U.S. Component Stocks and Rule 14.11(c)(3)(A)(i) applies only to U.S. Component Stocks (that is, the rule provides criteria for an index composed of equity securities and not for an index that is composed of options on an index of equity securities), the Indexes do not meet the criteria set forth in Rule 14.11(c)(3).²³

²¹ 15 U.S.C. 78f.

²² 15 U.S.C. 78f(b)(5).

²³ Rule 14.11(c)(3)(A)(i)(e) provides that all securities in the applicable index or portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the S&P 500 Index is a U.S. Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. The Funds and the Indexes meet all of the requirements of the listing standards for Index Fund Shares in Rule 14.11(c)(3), except the requirements in Rule 14.11(c)(3)(A)(i)(a)-(e), as the Index consists of options on the S&P 500 Index. The S&P

The Exchange believes that the concerns that Rule 14.11(c)(3)(A)(i) are intended to address are mitigated by: (i) the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index;²⁴ (ii) the competitive quoting process for and availability of information related to FLEX Options;²⁵ (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options and FINRA designed to detect violations of the federal securities laws and SRO rules. The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of FLEX Options, will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation.

The Exchange believes 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. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing

500 Index consists of U.S. Component Stocks and satisfies the requirements of Rule 14.11(c)(3)(A)(i)(a)-(e).

²⁴ The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

²⁵ Intraday quotations and last sale information for FLEX Options are available directly from Cboe Options or through the Options Price Reporting Authority. Additionally, information about existing outstanding interest in FLEX Options is available on the OCC's website.

regarding (a) the description of the portfolio, reference assets, and Index, (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 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. If a Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. 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.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, S&P 500 Index Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, S&P 500 Index Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of the Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Shares would present manipulation concerns.

The Exchange represents that, except as it relates to the options portion of the Indexes described above, the Funds will meet and be subject to all other requirements of Rule 14.11(c)(3) related to generic listing standards of the Indexes and other applicable requirements for such a series of Index Fund Shares under Rule 14.11(c) on an initial and continued listing basis, including those requirements regarding the dissemination of key information such as the Index Value, Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules. The Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Funds. Moreover, all of the options contracts 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.

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. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Index Fund Shares that will enhance competition among market participants, 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 self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the 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 proposal 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 No. SR-CboeBZX-2017-005 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 No. SR-CboeBZX-2017-005. 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 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File No. SR-CboeBZX-2017-005 and should be submitted on or before [insert 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Eduardo A. Aleman
Assistant Secretary

²⁶ 17 CFR 200.30-3(a)(12).