

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87651; File No. SR-CboeBZX-2019-099)

December 3, 2019

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Allow the Hartford Short Duration ETF to Hold Certain Fixed Income Instruments in a Manner that Does Not Comply with Rule 14.11(i)

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 20, 2019, Cboe BZX Exchange, Inc. (“Exchange”) 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to allow the Hartford Short Duration ETF (the “Fund”), a series of Hartford Funds Exchange-Traded Trust (the “Trust”), to hold certain fixed income instruments in a manner that does not comply with Rule 14.11(i) (“Managed Fund Shares”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, 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 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 aspects of such statements.

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

1. Purpose

The Shares are currently listed on the Exchange pursuant to the generic listing standards under Rule 14.11(i) governing Managed Fund Shares and comply with the generic listing standards.⁵ The Exchange proposes to continue listing and trading the Shares. The Shares would continue to comply with all of the generic listing standards after effectiveness of this proposal with the exception of the requirement of Rule 14.11(i)(4)(C)(ii)(d), that requires that component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio to satisfy at least one of five conditions. Specifically, the Exchange submits this proposal in order to allow the Fund to hold instruments in a manner that may not comply with Rule

⁵ The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR-BATS-2015-100).

14.11(i)(4)(C)(ii)(d),⁶ as further described below. The Exchange notes that this proposed exception to Rule 14.11(i)(4)(C)(ii)(d) is substantively identical to an exception included in two other rule filings that have been approved by the Commission.⁷

The Shares are offered by the Trust, which was established as a Delaware statutory trust on September 20, 2010. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N-1A with the Commission.⁸ Hartford Funds Management Company LLC acts as adviser to the Fund (the “Adviser”).

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with

⁶ Rule 14.11(i)(4)(C)(ii)(d) provides that “component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.” The Exchange instead is proposing that the fixed income portion of the portfolio excluding Non-Agency ABS, as defined below, will satisfy this 90% requirement.

⁷ See Securities Exchange Act Release Nos. 84047 (September 6, 2018), 83 FR 46200 (September 12, 2018) (SR-NASDAQ-2017-128) (the “Nasdaq Approval Order”); and 85701 (April 22, 2019), 84 FR 17902 (April 26, 2019) (SR-CboeBZX-2019-016) (the “Exchange Approval Order”).

⁸ The Trust filed a post-effective amendment to the Registration Statement on March 1, 2019 (the “Registration Statement”). See Registration Statement on Form N-1A for the Trust (File Nos. 333-215165 and 811-23222). The descriptions of the Fund and the Shares contained herein are based, in part, on information included in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust and affiliated persons under the Investment Company Act of 1940 (the “1940 Act”) (15 U.S.C. 80a-1). See Investment Company Act Release No. 30695 (September 24, 2013) (File No. 812-14178).

respect to access to information concerning the composition and/or changes to such investment company portfolio.⁹ In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain "fire walls" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Adviser personnel who make decisions regarding the 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

⁹ An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

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 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.

The Exchange represents that the Shares of the Fund will continue to comply with all other requirements applicable to Managed Fund Shares, which include the dissemination of key information such as the Disclosed Portfolio,¹⁰ Net Asset Value,¹¹ and the Intraday Indicative Value,¹² suspension of trading or removal,¹³ trading halts,¹⁴ surveillance,¹⁵ minimum price variation for quoting and order entry,¹⁶ the information circular,¹⁷ and firewalls¹⁸ as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. The Trust is also required to comply with Rule 10A-3 under the Act for the continued listing of the Shares of the Fund. The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

Hartford Short Duration ETF

¹⁰ See Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

¹¹ See Rule 14.11(i)(4)(A)(ii).

¹² See Rule 14.11(i)(4)(B)(i).

¹³ See Rule 14.11(i)(4)(B)(iii).

¹⁴ See Rule 14.11(i)(4)(B)(iv).

¹⁵ See Rule 14.11(i)(2)(C).

¹⁶ See Rule 14.11(i)(2)(B).

¹⁷ See Rule 14.11(i)(6).

¹⁸ See Rule 14.11(i)(7).

The Fund seeks to provide current income and long-term total return. In order to achieve its investment objective, under Normal Market Conditions,¹⁹ the Fund will invest primarily in investment grade and non-investment grade fixed income securities, as described in Rule 14.11(i)(4)(C)(ii). Under Normal Market Conditions, the Fund will invest the majority of its net assets in fixed income securities, including bank loans or loan participations. Such holdings in fixed income securities currently meet the requirements for fixed income instruments in Rule 14.11(i)(4)(C)(ii) and will continue to meet all of the requirements of Rule 14.11(i)(4)(C)(ii) except for Rule 14.11(i)(4)(C)(ii)(d), as discussed in more detail below.

Among others, such fixed income securities that may be held by the Fund include non-agency, non-GSE,²⁰ and privately-issued mortgage-related and other asset-backed securities (collectively, “Non-Agency ABS”), which it generally expects to include (but not be limited to) the following sectors: private mortgage backed securities, commercial mortgage backed securities, asset-backed securities (including autos, credit cards, equipment, consumer loans), and collateralized loan obligations. In accordance with Rule 14.11(i)(4)(C)(ii)(e), the Fund’s holdings in Non-Agency ABS do not currently and will not in the future account for more than 20% of the weight of the fixed income portion of the portfolio, in the aggregate.

¹⁹ As provided in 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.

²⁰ A “GSE” is a type of financial services corporation created by the United States Congress. GSEs include Fannie Mae and Freddie Mac, but not Sallie Mae, which is no longer a government entity.

The Fund will also generally invest up to 20% of its assets in cash and Cash Equivalents,²¹ listed derivatives,²² and OTC derivatives,²³ although such holdings may exceed 20%. The Fund's holdings in cash and Cash Equivalents, listed derivatives, and OTC derivatives will be in compliance with all generic listing standards, including those in Rules 14.11(i)(4)(C)(iii), 14.11(i)(4)(C)(iv), 14.11(i)(4)(C)(v), and 14.11(i)(4)(C)(vi), respectively.

The Fund's investments, including derivatives, will be consistent with the 1940 Act and the Fund's investment objective and policies and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).²⁴ That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used

²¹ As defined in Exchange Rule 14.11(i)(4)(C)(iii)(b), Cash Equivalents are short-term instruments with maturities of less than three months, which includes 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.

²² For purposes of this filing, listed derivatives include only the following instruments: Treasury futures, U.S. interest rate futures, and Eurodollar futures.

²³ For purposes of this filing, OTC derivatives include only the following instruments: interest rate swaps, currency forwards, and credit default swap indices.

²⁴ The Fund will 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 Fund will segregate or earmark liquid assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. 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).

to seek performance that is the multiple or inverse multiple (i.e., 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A). The Fund will only use those derivatives described above. The Fund's use of derivative instruments will be collateralized.

Discussion

While the Fund currently meets all of the generic listing standards under Rule 14.11(i), if the Fund had full flexibility to invest in a manner consistent with its investment strategy, it might not meet the requirements of Rule 14.11(i)(4)(C)(ii)(d) because certain Non-Agency ABS by their nature cannot satisfy these requirements. As described above, the Exchange is instead proposing that the fixed income portion of the portfolio excluding Non-Agency ABS will satisfy this 90% requirement. The Exchange believes that this alternative limitation is appropriate because Rule 14.11(i)(4)(C)(ii)(d) is not designed for structured finance vehicles such as Non-Agency ABS and the overall weight of the Non-Agency ABS held by the Fund will be limited to 20% of the fixed income portion of the Fund's portfolio as required under Rule 14.11(i)(4)(C)(ii)(e). The Exchange also notes that the Fund's portfolio is consistent with the policy issues underlying the rule as a result of the diversification provided by the investments and the Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. As noted above, the remainder of the fixed income securities held by the Fund will satisfy the requirements of Rule 14.11(i)(4)(C)(ii)(d) and the remainder of the Fund's portfolio, including fixed income securities, will meet all other applicable generic listing standards under Rule 14.11(i)(4)(C). Further, allowing the Fund full flexibility to implement its fixed income strategy and further diversify its holdings to provide exposure to a

broader array of fixed income securities would allow the Fund to better achieve its investment objective and, as such, benefit both existing and future investors in the Fund.

The Exchange represents that the Shares of the Fund will continue to comply with all other requirements applicable to Managed Fund Shares, which include the dissemination of key information such as the Disclosed Portfolio,²⁵ Net Asset Value,²⁶ and the Intraday Indicative Value,²⁷ suspension of trading or removal,²⁸ trading halts,²⁹ surveillance,³⁰ minimum price variation for quoting and order entry,³¹ the information circular,³² and firewalls³³ as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. The Exchange may obtain information regarding trading in the Shares and the underlying futures contracts via the Intermarket Surveillance Group (“ISG”) from other exchanges who are a member of ISG or affiliated with a member of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.³⁴ Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”). All

²⁵ See Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

²⁶ See Rule 14.11(i)(4)(A)(ii).

²⁷ See Rule 14.11(i)(4)(B)(i).

²⁸ See Rule 14.11(i)(4)(B)(iii).

²⁹ See Rule 14.11(i)(4)(B)(iv).

³⁰ See Rule 14.11(i)(2)(C).

³¹ See Rule 14.11(i)(2)(B).

³² See Rule 14.11(i)(6).

³³ See Rule 14.11(i)(7).

³⁴ 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.

statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Shares. The Fund has represented to the Exchange that it will advise the Exchange of any failure by the 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. 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 the 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.

Availability of Information

As noted above, the Fund will comply with the requirements under Rule 14.11(i) related to Disclosed Portfolio, NAV, and the intraday indicative value. Intraday price quotations on fixed income securities and OTC derivative instruments are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee. Additionally, the intraday, closing and settlement prices of futures contracts held by the Fund will be readily available from the exchanges on which such products are listed, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information for Cash Equivalents will be available from major market data vendors. The Disclosed Portfolio will be available on the Fund's website (www.hartfordfunds.com) free of charge. The Fund's website will include the prospectus for the

Fund and additional information related to NAV and other applicable quantitative information. Information regarding market price and trading volume of the Shares will be continuously available throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers. Trading in the Shares may be halted for market conditions or for reasons that, in the view of the Exchange, make trading inadvisable. The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions. The Exchange prohibits the distribution of material non-public information by its employees. Quotation and last sale information for the Shares will be available via the CTA high-speed line.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act³⁵ in general and Section 6(b)(5) of the Act³⁶ 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 in that the Shares will meet each of the continued listing criteria in BZX Rule 14.11(i) with the exception of Rule 14.11(i)(4)(C)(ii)(d) as specifically discussed herein.

While the Fund currently meets all of the generic listing standards under Rule 14.11(i), if the Fund were permitted full flexibility to invest consistent with its investment strategy, it might

³⁵ 15 U.S.C. 78f(b).

³⁶ 15 U.S.C. 78f(b)(5).

not meet the requirements of Rule 14.11(i)(4)(C)(ii)(d) because certain Non-Agency ABS by their nature cannot satisfy these requirements. The Exchange believes that excluding Non-Agency ABS from this calculation is consistent with the Act because the Fund's portfolio will minimize the risk associated with any particular holding of the Fund as a result of the diversification provided by the investments and the Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. Further, the Exchange believes that this alternative limitation is appropriate because Rule 14.11(i)(4)(C)(ii)(d) is not designed for structured finance vehicles such as Non-Agency ABS and the overall weight of the Non-Agency ABS held by the Fund will be limited to 20% of the fixed income portion of the Fund's portfolio as required under Rule 14.11(i)(4)(C)(ii)(e). The Exchange also notes that the Fund's portfolio will meet all of the other generic listing standards applicable under Rule 14.11(i), which will further act to mitigate the manipulation concerns which the rules are intended to address. Further, the other fixed income instruments, excluding Non-Agency ABS, held by the Fund will satisfy the 90% requirement under Rule 14.11(i)(4)(C)(ii)(d). Consistent with Rule 14.11(i)(4)(C)(ii)(e), the Non-Agency ABS held by the Fund will not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

As noted above, the remainder of the Fund's portfolio, including fixed income securities, will meet all other applicable generic listing standards under Rule 14.11(i)(4)(C). Allowing the Fund full flexibility to implement its fixed income strategy and further diversify its holdings to provide exposure to a broader array of fixed income securities would allow the Fund to better achieve its investment objective and, as such, benefit both existing and future investors in the Fund.

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. Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain “fire walls” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In addition, Adviser personnel who make decisions regarding the Fund’s portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund’s portfolio. Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to TRACE. The Exchange may obtain information regarding trading in the Shares via the ISG from other exchanges who are a member of ISG or affiliated with a member of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Exchange further notes that the Fund will meet and be subject to all other requirements of the generic listing rules and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order

entry, the information circular, and firewalls as set forth in Exchange rules applicable to Managed Fund Shares.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. The Fund's website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) the prior business day's NAV and the market closing price or mid-point of the Bid/Ask Price,³⁷ and a calculation of the premium or discount of the market closing price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily market closing price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the

³⁷ The Bid/Ask Price of a Fund will be determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund or its service providers.

facilities of the Consolidated Tape Association. The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of a Fund will be halted under the conditions specified in Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday price quotations on fixed income securities and OTC derivative instruments are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee. Additionally, the intraday, closing and settlement prices of futures contracts held by the Fund will be readily available from the exchanges on which such products are listed, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information for Cash Equivalents will be available from major market data vendors. The Exchange prohibits the distribution of material non-public information by its employees.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the continued listing and trading of an actively-managed exchange traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG, from other exchanges that are members of ISG, or with which

the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, 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. FINRA can also access data obtained from the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. As noted above, investors will also have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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, rather will facilitate the fixed income strategy of an actively-managed exchange-traded product that will allow the Fund to better compete in the marketplace, thus enhancing competition among both market participants and listing venues, 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

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii)

become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁸ and Rule 19b-4(f)(6) thereunder.³⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁴⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁴¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing.

The Exchange represents that the Shares are currently listed on the Exchange pursuant to the generic listing standards under BZX Rule 14.11(i) governing Managed Fund Shares and comply with the generic listing standards. The Exchange further represents that the Shares would continue to comply with all of the generic listing standards after effectiveness of this proposal, with the exception of BZX Rule 14.11(i)(4)(C)(ii)(d), which requires that component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio to satisfy at least one of five conditions.⁴² The Commission notes that, in the context of holdings in Non-

³⁸ 15 U.S.C. 78s(b)(3)(A).

³⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴⁰ 17 CFR 240.19b-4(f)(6).

⁴¹ 17 CFR 240.19b-4(f)(6)(iii).

⁴² The Exchange also represents that the Shares of the Fund will continue to comply with all other requirements applicable to Managed Fund Shares, which include the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, suspension of trading or removal, trading halts, surveillance, minimum

Agency ABS, the proposed exception to BZX Rule 14.11(i)(4)(C)(ii)(d) is consistent with an exception applied in other proposed rule changes that have been approved by the Commission.⁴³ Accordingly, the Commission believes that the proposal raises no new or novel regulatory issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission therefore waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.⁴⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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

price variation for quoting and order entry, the information circular, and firewalls as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. See supra notes 10-18 and accompanying text.

⁴³ See supra note 7.

⁴⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2019-099 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 Number SR-CboeBZX-2019-099. 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 the filing also will 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 Number SR-CboeBZX-2019-099 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Jill M. Peterson
Assistant Secretary

⁴⁵ 17 CFR 200.30-3(a)(12).