

promptly providing written notice to its members whenever FINRA changes a rule that the Exchange has incorporated by reference.

Accordingly, *it is ordered*, pursuant to Section 36 of the Exchange Act,<sup>19</sup> that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in its request that incorporate by reference certain FINRA rules that are the result of changes to such FINRA rules, provided that the Exchange promptly provides written notice to its members whenever FINRA proposes to change a rule that the Exchange has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83295; File No. SR-Phlx-2018-39]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections I and II of the Pricing Schedule

May 21, 2018.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on May 10, 2018, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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 proposes to amend Phlx’s Pricing Schedule at Section I, entitled “Rebates and Fees for Adding and Removing Liquidity in SPY,” and Section II, entitled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).”

overlying equities, ETFs, ETNs and indexes which are Multiply Listed).”

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqphlx.cchwallstreet.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 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 Exchange proposes to amend Phlx’s Pricing Schedule at Section I, entitled “Rebates and Fees for Adding and Removing Liquidity in SPY,” and Section II, entitled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).” Specifically, the Exchange proposes to amend a surcharge in Section I, Part B, which applies to options overlying SPY as well as a surcharge in Section II related to Complex Orders in order to further reduce the costs to the Exchange of such transactions. Each surcharge amendment is described below in more detail.

##### Section I, Part B

The Exchange proposes to amend Section I, Part B to amend Complex Order<sup>4</sup> fees for SPY. The Exchange proposes to increase a surcharge of \$0.05 per contract, which is currently assessed to Customers<sup>5</sup> when executing

<sup>4</sup> A Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. See Phlx Rule 1098.

<sup>5</sup> The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Rule 1000(b)(14)).

the individual components of their Complex Orders in SPY against Market Maker<sup>6</sup> or Specialist<sup>7</sup> quotes that are resting on the Simple Order Book. Today, Customers submit Complex Orders to the Exchange because often, Customers are able to execute such Complex Orders immediately by executing the individual components thereof through interactions with Market Maker and Specialist quotes that rest on the Exchange’s Simple Order Book. These Customers benefit from not having to wait for counterparties that are willing to execute against their Complex Orders in the Complex Order Book. The Exchange proposes to increase the surcharge from \$0.05 to \$0.15 per contract for Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book.<sup>8</sup> The Exchange proposes this surcharge increase to reduce further the Exchange’s costs for these transactions. Not only does the Exchange receive no fees from Customers for engaging in these transactions,<sup>9</sup> but the Exchange also pays rebates to the Market Makers and Specialists whose quotes execute against the Customers’ Complex Orders.<sup>10</sup> Pursuant to Section I, Part A of the Exchange’s Pricing Schedule, these rebates range from \$0.15 to \$0.35 per contact.

##### Section II

The Exchange proposes to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity<sup>11</sup> from the Complex Order Book and auctions,

<sup>6</sup> The term “ROT, SQT and RSQT” applies to transactions for the accounts of Registered Option Traders (“ROTs”), Streaming Quote Traders (“SQTs”), and Remote Streaming Quote Traders (“RSQTs”). For purposes of the Pricing Schedule, the term “Market Maker” will be utilized to describe fees and rebates applicable to ROTs, SQTs and RSQTs. RSQTs may also be referred to as Remote Market Marketers (“RMMs”). See Preface to Phlx’s Pricing Schedule.

<sup>7</sup> The term “Specialist” applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)). A Specialist is an Exchange member registered as an options specialist pursuant to Rule 1020(a). An options Specialist includes a Remote Specialist, which is defined as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.

<sup>8</sup> A component of a Complex Order may “leg” against a resting order in the Simple Order Book.

<sup>9</sup> Non-Customer market participants pay fees for adding and removing liquidity in Complex Orders as noted in Section I, Part B of the Pricing Schedule, although Customers pay no such fees.

<sup>10</sup> See rebates in Section I, Part A of the Pricing Schedule.

<sup>11</sup> The Exchange notes that an order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

<sup>19</sup> 15 U.S.C. 78mm.

<sup>20</sup> 17 CFR 200.30-3(a)(76).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

excluding PIXL,<sup>12</sup> in Non-Penny Pilot Options (excluding NDX and NDXP).<sup>13</sup> The Exchange proposes to increase this surcharge for electronically-delivered Complex Orders from \$0.10 to \$0.12 per contract to reduce further the Exchange's costs for these transactions. Today, Customers pay no Options Transaction Charges in Non-Penny Pilot Options.<sup>14</sup> The Exchange pays Customer rebates for Complex Orders in Section B of the Pricing Schedule. The Exchange desires to continue to incentivize Customers to interact with Complex Order liquidity by offering those rebates in Section B of the Pricing Schedule. The Exchange believes that while the surcharge is being increased for the Options Transaction Charge in Non-Penny Pilot Options excluding NDX and NDXP, the fees remain competitive as the Exchange does not assess Customers a fee but offers Customers rebates. The surcharge is assessed to Non-Customers.<sup>15</sup> The Exchange is proposing to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule to make clear that today, Customers do not get assessed a surcharge. The Exchange assesses surcharges to market participants that pay Options Transaction Charges. In this case, only Non-Customer market participants pay an Options Transaction Charge for Non-Penny Pilot Options. Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By [sic] adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customer.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>16</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>17</sup> in particular, in that it provides for the equitable allocation of

<sup>12</sup> PIXL<sup>SM</sup> is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. See Phlx Rule 1087.

<sup>13</sup> Today, this surcharge is not subject to the Monthly Market Maker Cap. Phlx Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$500,000 for: (i) Electronic Option Transaction Charges, excluding surcharges and excluding options overlying NDX and NDXP; and (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)).

<sup>14</sup> Non-Customer market participants pay a \$0.75 per contract Options Transaction Charge in Non-Penny Pilot Options excluding NDX and NDXP.

<sup>15</sup> The term "Non-Customer" applies to transactions for the accounts of Specialists, Market Makers, Firms, Professionals, Broker-Dealers and JBOs.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(4) and (5).

reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

## Section I, Part B

The Exchange's proposal to amend Section I, Part B related to Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book is reasonable because the surcharge would reduce the Exchange's costs associated with these transactions. Each such transaction costs the Exchange between \$0.15 and \$0.35 per contract in rebates to Market Makers and Specialists. Moreover, it is reasonable to impose this surcharge on Customers because Customers benefit the most from being able to achieve immediate executions of their Complex Orders in the relevant scenario. The Exchange believes that the surcharge is minimal and will not be substantial enough to eliminate or even significantly diminish the benefits to Customers of being able to achieve immediate executions in this manner. Finally, the Exchange notes that all other account categories, Professionals,<sup>18</sup> Firms,<sup>19</sup> Broker-Dealers,<sup>20</sup> Specialists, and Market Makers, pay higher fees when the Complex Order removes liquidity from the Complex Order Book or the Simple Order Book<sup>21</sup> than Customers would pay under the proposal when they execute their Complex Orders against Simple Orders of Market Makers and Specialists that are resting on the Simple Order Book.<sup>22</sup>

The Exchange's proposal to amend Section I, Part B to amend Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book is equitable and not

<sup>18</sup> The term "Professional" applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>19</sup> The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

<sup>20</sup> The term "Broker-Dealer" applies to any transaction, which is not subject to any of the other transaction fees applicable within a particular category.

<sup>21</sup> A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

<sup>22</sup> See Section I, Part B of the Pricing Schedule.

unfairly discriminatory because the Exchange will uniformly apply the fee to all similarly-situated Customers. Even with this increased surcharge, Customers are assessed the least amount per contract for executions in SPY. As noted herein, Customers are not assessed fees for adding and removing liquidity for SPY Complex Orders. With respect to the Simple Market, a Customer is assessed the lowest fee for removing liquidity.<sup>23</sup> The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no fees or lower fees because Customer orders bring valuable liquidity to the market, which benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

## Section II

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract is reasonable because it will further offset the cost of paying rebates as provided for in Section I, Part A to Specialists and Market Makers. The Exchange believes that it is reasonable to only assess this surcharge to those orders which remove liquidity from the market because the Exchange wants to continue to encourage market participation and price improvement for those participants that seek to add liquidity on Phlx. The Exchange believes that not assessing the surcharge on PIXL and SPY orders is reasonable. PIXL has its own pricing,<sup>24</sup> and the Exchange wants to continue to encourage price improvement within PIXL. SPY has its own rebate program separate and apart from Section B.<sup>25</sup> Limiting the surcharges to electronically-delivered transactions is reasonable because the Section B rebates apply only to electronically-delivered Customer orders. Further, limiting the surcharge to orders entered electronically is

<sup>23</sup> A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

<sup>24</sup> See Section IV, Part A of the Pricing Schedule.

<sup>25</sup> See Section I of the Pricing Schedule. SPY Pricing is only in Section I. Section II pricing applies to Multiply-Listed Options excluding SPY Options.

equitable and not unfairly discriminatory because the Exchange has expended considerable resources to develop its electronic trading platforms and seeks to recoup the costs of such expenditures. Finally, excluding NDX and NDXP is reasonable because these symbols are currently subject to a surcharge.<sup>26</sup> The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule is reasonable because today Customers do not get assessed a surcharge. The surcharge is assessed to Non-Customer market participants who pay an Options Transaction Charge for Non-Penny Pilot Options. Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By [sic] adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customer.

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract is equitable and not unfairly discriminatory because the Exchange will uniformly apply this surcharge to all Non-Customer or [sic] market participants that pay an Options Transaction Charge. The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule is equitable and not unfairly discriminatory because Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By [sic] adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customers. The Exchange believes that it is equitable and not unfairly discriminatory to assess no Options Transaction Charge for Non-Penny Pilot Options or surcharge fee because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

#### *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 not necessary or appropriate in furtherance

of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

#### Section I, Part B

The Exchange's proposal to amend Section I, Part B to amend Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book does not impose an undue burden on competition because the Exchange will uniformly apply the fee to all similarly-situated Customers. Even with this increased surcharge, Customers are assessed the least amount per contract for executions in SPY. As noted herein, Customers are not assessed fees for adding and removing liquidity for SPY Complex Orders. With respect to the Simple Market, a Customer is assessed the lowest fee for removing liquidity.<sup>27</sup> The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no fees or lower fees because Customer orders bring valuable liquidity to the market, which benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

#### Section II

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders

that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract does not impose an undue burden on competition because the Exchange will uniformly apply this surcharge to all Non-Customer or [sic] market participants that pay an Options Transaction Charge. The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule does not impose an undue burden on competition because Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By [sic] adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customers. The Exchange believes that assessing no Options Transaction Charge for Non-Penny Pilot Options and not assessing a surcharge fee does not impose an undue burden on competition because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>28</sup>

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.

<sup>26</sup> See Section II of the Pricing Schedule.

<sup>27</sup> A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2018-39 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-Phlx-2018-39. This file number should be included on the subject line if email 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-Phlx-2018-39 and should be submitted on or before June 15, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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<sup>29</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83293; File No. SR-CboeBZX-2018-010]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt BZX Rule 14.11(k) To Permit the Listing and Trading of Managed Portfolio Shares and To List and Trade Shares of the ClearBridge Appreciation ETF, ClearBridge Large Cap ETF, ClearBridge Mid Cap Growth ETF, ClearBridge Select ETF, and ClearBridge All Cap Value ETF

May 21, 2018.

On February 5, 2018, Cboe 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 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt BZX Rule 14.11(k) to permit the listing and trading of Managed Portfolio Shares, and to list and trade shares ("Shares") of the ClearBridge Appreciation ETF, ClearBridge Large Cap ETF, ClearBridge Mid Cap Growth ETF, ClearBridge Select ETF, and ClearBridge All Cap Value ETF under proposed BZX Rule 14.11(k). The proposed rule change was published for comment in the **Federal Register** on February 20, 2018.<sup>3</sup> On April 3, 2018, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> The Commission has received four comment letters on the proposed rule change.<sup>6</sup> This order

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 82705 (February 13, 2018), 83 FR 7256 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 82984, 83 FR 15181 (April 9, 2018). The Commission designated May 21, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>6</sup> See letters to Brent J. Fields, Secretary, Commission, from: (1) Todd J. Broms, Chief Executive Officer, Broms & Company LLC, dated March 13, 2018 ("Broms Letter"); (2) Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, dated March 19, 2018 ("Blue Tractor Letter I"); (3) Terence W. Norman, Founder, Blue Tractor Group, LLC, dated March 20, 2018 ("Blue Tractor Letter II"); and (4) Terence W. Norman, Founder, Blue Tractor Group, LLC, dated May 8, 2018 ("Blue Tractor Letter III"). The comment letters are

institutes proceedings under Section 19(b)(2)(B) of the Exchange Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change.

### I. Summary of the Exchange's Description of the Proposed Rule Change<sup>8</sup>

The Exchange proposes to adopt BZX Rule 14.11(k), which would govern the listing and trading of Managed Portfolio Shares.<sup>9</sup> The Exchange also proposes to list and trade Shares of the ClearBridge Appreciation ETF, ClearBridge Large Cap ETF, ClearBridge Mid Cap Growth ETF, ClearBridge Select ETF, and ClearBridge All Cap Value ETF under proposed BZX Rule 14.11(k) (each a "Fund," and collectively the "Funds").

#### A. Description of the Funds

The portfolio for each Fund will consist primarily of long and/or short positions in U.S. exchange-listed securities and shares issued by other U.S. exchange-listed exchange-traded funds ("ETFs").<sup>10</sup> All exchange-listed equity securities in which the Funds will invest will be listed and traded on U.S. national securities exchanges.

##### 1. ClearBridge Appreciation ETF

The ClearBridge Appreciation ETF will seek to provide long-term appreciation of shareholders' capital.

available at <https://www.sec.gov/comments/sr-cboebzx-2018-010/cboebzx2018010.htm>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> For a complete description of the Exchange's proposal, including a description of the Precidian ETF Trust II ("Trust"), see Notice, *supra* note 3.

<sup>9</sup> Proposed BZX Rule 14.11(k)(3)(A) defines the term "Managed Portfolio Share" as a security that (a) represents an interest in a registered investment company ("Investment Company") organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit (as defined in proposed BZX Rule 14.11(k)(3)(C)), or multiples thereof, in return for a designated portfolio of securities (and/or an amount of cash) with a value equal to the next determined net asset value ("NAV"); and (c) when aggregated in the same specified aggregate number of shares equal to a Redemption Unit (as defined in proposed BZX Rule 14.11(k)(3)(D)), or multiples thereof, may be redeemed at the request of an authorized participant, which authorized participant will be paid through a confidential account established for its benefit ("Confidential Account") a portfolio of securities and/or cash with a value equal to the next determined NAV.

<sup>10</sup> The Exchange represents that, for purposes of describing the holdings of the Funds, ETFs include Portfolio Depository Receipts (as described in BZX Rule 14.11(b)); Index Fund Shares (as described in BZX Rule 14.11(c)); and Managed Fund Shares (as described in BZX Rule 14.11(i)). The ETFs in which a Fund will invest all will be listed and traded on national securities exchanges. While the Funds may invest in inverse ETFs, the Funds will not invest in leveraged (e.g., 2X, -2X, 3X, or -3X) ETFs.