Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 036
Amendment No. (req. for Amendments *) 1

Filing by Cboe Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☐	☑	☐	☑	☐	☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐

Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Laura
Last Name * Dickman
Title * VP, Associate General Counsel
E-mail * ldickman@cboe.com
Telephone * (312) 786-7572
Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Cboe Exchange, Inc.
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 01/21/2025

By Laura G. Dickman
(Name *)

(Title *)
VP, Associate General Counsel

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Laura Dickman
Date: 2025.01.21 14:17:56 -06'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information * Add · Remove · View 24-036 19b-4 (Options on Ethereum E	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add · Remove · View 24-036 Exhibit 1 (Options on Ethereu	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies * Add · Remove · View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2- Notices, Written Comments, Transcripts, Other Communications Add · Remove · View	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G. ☐ Exhibit Sent As Paper Document
Exhibit 3 - Form, Report, or Questionnaire Add · Remove · View	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change. ☐ Exhibit Sent As Paper Document
Exhibit 4 - Marked Copies Add · Remove · View 24-036 Exhibit 4 (Options on Ethereun	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add · Remove · View 24-036 Exhibit 5 (Options on Ethereun	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change
Partial Amendment Add · Remove · View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. **Text of the Proposed Rule Change**

(a) Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rules 4.3, 4.20, and 8.30. The Exchange initially submitted this rule filing SR-CBOE-2024-036 to the Securities and Exchange Commission (the "Commission") on August 19, 2024 (the "Initial Rule Filing"). This Amendment No. 1 supersedes the Initial Rule Filing and replaces it in its entirety. This Amendment No. 1 narrows the scope of the proposed rule change from options on nine exchange-traded funds ("ETFs") to options on one ETF, as well as amends the proposed position and exercise limits for options on that ETF and provides support for these proposed amended limits. The text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

Item 2. **Procedures of the Self-Regulatory Organization**

(a) The Exchange's President (or designee) pursuant to delegated authority approved the proposed rule change on October 31, 2024.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Laura G. Dickman, (312) 786-7572, Cboe Exchange, Inc., 433 West Van Buren Street, Chicago, Illinois 60607.

Item 3. **Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) Purpose

The Exchange proposes to amend Rule 4.3 regarding the criteria for underlying securities. Specifically, the Exchange proposes to amend Rule 4.3, Interpretation and

Policy .06(a)(4) to allow the Exchange to list and trade options on Units[1] that represent interests in the Fidelity Ethereum Fund (the "Fidelity Fund")[2], designating them as "Units" deemed appropriate for options trading on the Exchange. Current Rule 4.3, Interpretation and Policy .06 provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Units that represent certain types of interests,[3]

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1 Rule 1.1 defines a "Unit" (which may also be referred to as an ETF) as a share or other security traded on a national securities exchange and defined as an NMS stock as set forth in Rule 4.3.

2 See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2023-70; SR-NYSEArca-2024-31; SR-NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023-087; SR-CboeBZX-2023-095; and SRCboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) ("Ethereum ETP Approval Order").

3 See Rule 4.3, Interpretation and Policy .06(a), which permits options trading on Units that represent (1) interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse purchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust ("Currency Trust Shares"); (3) commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool Units"); (4) interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Silver Trust, the Aberdeen Standard Physical Gold Trust, the Aberdeen Standard Physical Palladium Trust, the Aberdeen Standard Physical Platinum Trust, the Sprott Physical Gold Trust, the Goldman Sachs Physical Gold ETF, the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, or the Bitwise Bitcoin ETF; or (5) 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, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified

including interests in certain specific trusts that hold financial instruments, money market instruments, precious metals (which are deemed commodities), or Bitcoin (which is also deemed a commodity).

The Fidelity Fund is an Ethereum-backed commodity ETF structured as a trust. Similar to any Unit currently deemed appropriate for options trading under Rule 4.3, Interpretation and Policy .06, the investment objective of the Fidelity Fund is for its shares to reflect the performance of Ethereum (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to Ethereum without the complexities of Ethereum delivery. As is the case for Units currently deemed appropriate for options trading, the Fidelity Fund's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of Ethereum and are designed to track Ethereum or the performance of the price of Ethereum and offer access to the Ethereum market.[4] The Fidelity Fund provides investors with cost-efficient alternatives that allow a level of participation in the Ethereum market through the securities market. The primary substantive difference between the Fidelity Fund and Units currently deemed appropriate for options trading are that Units may hold securities, certain financial instruments, specified precious metals (which are deemed commodities), and Bitcoin (which is also deemed a commodity), while the Fidelity Fund holds Ethereum (which is also deemed a commodity).

The Exchange believes the Fidelity Fund satisfies the Exchange's initial listing standards for Units on which the Exchange may list options. Specifically, the Fidelity Fund satisfies the initial listing standards set forth in Rule 4.3, Interpretation and Policy .06(b), as

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portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share").

[4] The trust may include minimal cash.

is the case for other Units on which the Exchange lists options (including trusts that hold commodities). Rule 4.3, Interpretation and Policy .06 requires that Units must either (1) meet the criteria and standards set forth in Rule 4.3, Interpretation and Policy .01(a),[5] or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the prospectus. The Fidelity Fund satisfies Rule 4.3, Interpretation and Policy .06(b)(2), as it is subject to this creation and redemption process.

While not required by the Rules for purposes of options listings, the Exchange believes the Fidelity Fund satisfies the criteria and guidelines set forth in Rule 4.3, Interpretation and Policy .01. Pursuant to Rule 4.3(a), a security (which includes a Unit) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934, as amended (the "Act")), and be characterized by a substantial number of outstanding shares that are widely held and actively traded.[6] The

5 Rule 4.3, Interpretation and Policy .01 provides for guidelines to be by the Exchange when evaluating potential underlying securities for Exchange option transactions.

6 The criteria and guidelines for a security to be considered widely held and actively traded are set forth in Rule 4.3, Interpretation and Policy .01, subject to exceptions.

Fidelity Fund is an NMS Stock as defined in Rule 600 of Regulation NMS under the Act.[7] The Exchange believes the Fidelity Fund is characterized by a substantial number of outstanding shares that are widely held and actively traded.

As of December 23, 2024, the Fidelity Fund had 41,700,000 shares outstanding, which is nearly six times more than the minimum number of shares of a corporate stock (i.e., 7,000,000 shares) that the Exchange generally requires to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(1). The Exchange believes this demonstrates that the Fidelity Fund is characterized by a substantial number of outstanding shares.

Further, as of November 26, 2024, there were 38,170 beneficial holders of shares of the Fidelity Fund, which is significantly more than 2,000 beneficial holders (approximately 19 times more), which is the minimum number of holders the Exchange generally requires for corporate stock in order to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(2). Therefore, the Exchange believes the shares of the Fidelity Fund are widely held.[8]

The Exchange also believes the shares of the Fidelity Fund are actively traded. As of December 23, 2024, the total trading volume (by shares) and the approximate average daily volume ("ADV") (in shares and notional) from July 23, 2024 (the date on which shares of the Fidelity Fund began trading) to December 23, 2024 for the Fidelity Fund was as follows:

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7 An "NMS stock" means any NMS security other than an option, and an "NMS security" means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan (or an effective national market system plan for reporting transaction in listed options). See 17 CFR § 242.600(b)(64) (definition of "NMS security") and (65) (definition of "NMS stock").

8 The Exchange continues to believe assets under management ("AUM"), rather than shares outstanding and number of holders, is a better measure of investable capacity of ETFs and a more appropriate figure for determining position and exercise limits of ETFs and looks forward to further discussions with the Commission staff on this topic.

Trading Volume (Shares)	ADV (Shares)	ADV (Notional $)
115,589,047	1,070,269	33,864,193

As demonstrated above, despite the fact that the Fidelity Fund has been trading for approximately five months as of December 23, 2024, its total trading volume as of that date was substantially higher than 2,400,000 shares (more than 48 times that amount), which is the minimum 12-month volume the Exchange generally requires for a corporate stock in order to list options on that security as set forth in Rule 4.3, Interpretation and Policy .01. Additionally, as of December 23, 2024, the trading volume for the Fidelity Fund was in the top 5% of all ETFs that are currently trading. The Exchange believes this data demonstrates the Fidelity Fund is characterized as having shares that are actively traded.

Options on the Fidelity Fund will be subject to the Exchange's continued listing standards set forth in Rule 4.4, Interpretation and Policy .06 for Units deemed appropriate for options trading pursuant to Rule 4.3, Interpretation and Policy .06. Specifically, Rule 4.4, Interpretation and Policy .06 provides that Units that were initially approved for options trading pursuant to Rule 4.3, Interpretation and Policy .06 shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that such Units, if the Units cease to be an NMS stock or the Units are halted from trading in their primary market. Additionally, options on Units may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering Units approved for trading under Rule 4.3, Interpretation and Policy .06(b)(1), in accordance with the terms of paragraphs (a), (b), and (c) of Rule 4.4, Interpretation and Policy .01; (2) in the case of options covering Units approved for trading under Rule 4.3 Interpretation and Policy .06(b)(2) (as is the case for the

Fidelity Fund), following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange and are defined as an NMS stock, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on the Fidelity Fund will be physically settled contracts with American-style exercise.[9] Consistent with current Rule 4.5, which governs the opening of options series on a specific underlying security (including Units), the Exchange will open at least one expiration month for options on the Fidelity Fund[10] at the commencement of trading on the Exchange

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9 See Rule 4.2, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation ("OCC"); and Equity Options Product Specifications January 3, 2024), available at Equity Options Specifications (cboe.com); see also OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

10 See Rule 4.5(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 4.3. Monthly listings expire the third Friday of the month. The term "expiration date" (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. See OCC By-Laws Article I, Section 1. Pursuant to Rule 4.5(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

and may also list series of options on the Fidelity Fund for trading on a weekly,[11] monthly,[12] or quarterly[13] basis. The Exchange may also list long-term equity option series ("LEAPS") that expire from 12 to 180 months from the time they are listed.

Pursuant to Rule 4.5, Interpretation and Policy .07, which governs strike prices of series of options on Units, the interval of strikes prices for series of options on the Fidelity Fund will be $1 or greater when the strike price is $200 or less and $5 or greater where the strike price is over $200.[14] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[15] the $0.50 Strike Program,[16] the $2.50 Strike Price Program,[17] and the $5 Strike Program.[18] Pursuant to Rule 5.4, where the price of a series of a Fidelity Fund option is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[19] Any and all new series of Fidelity Fund options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 4.5 and 5.4, as applicable.

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11 See Rule 4.5(d).

12 See Rule 4.5(g).

13 See Rule 4.5(e).

14 The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Monthly Options Series Program, and the Quarterly Options Series Program, Rules 4.5(d), (e), and (g) specifically sets forth intervals between strike prices on Quarterly Options Series, Short Term Option Series, and Monthly Options Series, respectively.

15 See Rule 4.5, Interpretation and Policy .01(a).

16 See Rule 4.5, Interpretation and Policy .01(b).

17 See Rule 4.5, Interpretation and Policy .04.

18 See Rule 4.5, Interpretation and Policy .01(f).

19 If options on the Fidelity Fund are eligible to participate in the Penny Interval Program, the minimum increment will be $0.01 for series with a price below $3.00 and $0.05 for series with a price at or above $3.00. See 5.4(d) (which describes the requirements for the Penny Interval Program).

The Exchange also proposes to amend Rule 8.30. Specifically, the Exchange proposes to adopt Rule 8.30, Interpretation and Policy .10 to provide a position limit of 25,000 same side option contracts for the Fidelity Fund option. Additionally, pursuant to Rule 8.42, Interpretation and Policy .02, the exercise limits for options on the Fidelity Fund will be equivalent to this proposed position limit.

The Exchange determined these proposed position and exercise limits considering, among other things, the ADV (since trading of the Fidelity Fund began on July 23, 2024) and outstanding shares of the Fidelity Fund (which as discussed above demonstrate that the Fidelity Fund is widely held and actively traded and thus justify these conservatively proposed position limits), as set forth below, along with market capitalization (as of December 23, 2024):

ADV (shares)	**Outstanding Shares**	**Market Capitalization ($)**
1,070,269	41,700,000	1,433,229,000

The Exchange then compared the number of outstanding shares of the Fidelity Fund to those of other ETFs. The approximate average position (and exercise limit) of ETF options with similar outstanding shares (as of December 31, 2024) was approximately 102,703 contracts, which is significantly higher (approximately 4 times) than the proposed position and exercise limit of 25,000 contracts for Fidelity Fund options.[20] As discussed above, shares of the Fidelity Fund are actively held and widely traded: (1) the Fidelity Fund (as of December 23, 2024) had significantly more than 7,000,000 shares outstanding, which is the minimum

20 The position limits for those ETF options for which the underlying ETFs had similar outstanding shares were all 50,000 or above, and nearly half of them had position limits of 200,000 or 250,000 contracts.

number of shares of a corporate stock that the Exchange generally requires to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(1); (2) the Fidelity Fund (as of November 26, 2024) had significantly more than 2,000 beneficial holders, which is the minimum number of holders the Exchange generally requires for corporate stock in order to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(2); and (3) the Fidelity Fund had a trading volume in the approximately five-month time period since it began trading substantially higher than 2,400,000 shares, which is the minimum 12-month volume the Exchange generally requires for a security in order to list options on that security as set forth in Rule 4.3, Interpretation and Policy .01.

With respect to outstanding shares, if a market participant held the maximum number of positions possible pursuant to the proposed position and exercise limits, the equivalent shares represented by the proposed position/exercise limit would represent approximately 6.0% of the 41,700,000 current outstanding shares of the Fidelity Fund. Therefore, if a market participant held the maximum permissible options positions in Fidelity Fund options and exercised all of them at the same time, that market participant would control a small percentage of the outstanding shares of the Fidelity Fund.

Cboe Options Rule 8.30, Interpretation and Policy .02, provides two methods of qualifying for a position limit tier above 25,000 option contracts. The first method is based on six-month trading volume in the underlying security, and the second method is based on slightly lower six-month trading volume *and* number of shares outstanding in the underlying security. An underlying stock or ETF that qualifies for method two based on trading volume and number of shares outstanding would be required to have the minimum number of outstanding shares as shown in middle column of the table below.

The table, which provides the equivalent shares of the position limits applicable to equity options, including ETFs, further represents the percentages of the minimum number of outstanding shares that an underlying stock or ETF must have to qualify for that position limit (under the second method described above).

Position/Exercise Limit (in equivalent shares)	**Minimum Outstanding Shares**	**Percentage of Outstanding Shares**
2,500,000	6,300,000	40.0%
5,000,000	40,000,000	12.5%
7,500,000	120,000,000	6.3%
20,000,000	240,000,000	8.3%
25,000,000	300,000,000	8.3%

The equivalent shares represented by the proposed position and exercise limits for the Fidelity Fund as a percentage of outstanding shares of the Fidelity Fund is significantly lower than the percentage for the lowest possible position limit for equity options of 25,000, which is the position limit the Exchange is proposing for Fidelity Fund options.[21]

Further, the proposed position and exercise limit for Fidelity Fund options is equal to the lowest position and exercise limits available in the options industry for equity options, are

[21] As these percentages are based on the minimum number of outstanding shares an underlying security must have to qualify for the applicable position limit, these are the highest possible percentages that would apply to any option subject to that position and exercise limit. 6,300,000 is the minimum number of outstanding shares an underlying security must have for the Exchange to continue to list options on that security, so this would be the smallest number of outstanding shares permissible for any corporate option that would have a position limit of 25,000 contract. See Rule 4.5, Interpretation and Policy .01. This rule applies to corporate stock options but not ETF options, which currently have no requirement regarding outstanding shares of the underlying ETF for the Exchange to continue listing options on that ETF. Therefore, there may be ETF options trading for which the 25,000 contract position limit represents an even larger percentage of outstanding shares of the underlying ETF than set forth above.

extremely conservative and more than appropriate given the market capitalization, average daily volume, and high number of outstanding shares of the Fidelity Fund. The proposed position and exercise limit for the Fidelity Fund is also equal to the position and exercise limits for ETFs that hold Bitcoin, as recently approved by the Commission.[22]

All of the above information demonstrates that the proposed position and exercise limits for Fidelity Fund options are more than reasonable and appropriate. The trading volume, ADV, and outstanding shares of the Fidelity Fund demonstrate that its shares are actively traded and widely held, and proposed position and exercise limit is well below those of options on other ETFs with similar market characteristics. The proposed position and exercise limit would be the lowest position and exercise limit available for equity options in the industry, are extremely conservative, and are more than appropriate given the Fidelity Fund's market capitalization, ADV, and high number of outstanding shares.

Rule 4.20 currently permits the Exchange to authorize for trading a FLEX option class on any equity security if it may authorize for a trading a non-FLEX option class on that equity security pursuant to Rule 4.3. The proposed rule change amends Rule 4.20 to exclude the Fidelity Fund from this provision.

Fidelity Fund options will trade in the same manner as any other Unit options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Fidelity Fund

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[22] See Securities Exchange Act Release No. 101387 (October 18, 2024), 89 FR 84948 (October 24, 2024) (SR-CBOE-2024-035) ("Bitcoin ETF Option Approval"); see also Rule 8.30, Interpretation and Policy .10.

options on the Exchange in the same manner as they apply to other options on all other Units that are listed and traded on the Exchange, including the precious-metal backed commodity Units already deemed appropriate for options trading on the Exchange pursuant to current Rule 4.3, Interpretation and Policy .06(a)(4).

Today, the Exchange has an adequate surveillance program in place for options. Cboe intends to apply those same program procedures to options on the Fidelity Fund that it applies to the Exchange's other options products.[23] Cboe's market surveillance staff would have access to the surveillances conducted by Cboe BZX Exchange, Inc. ("BZX")[24] with respect to the Fidelity Fund and would review activity in the Fidelity Fund when conducting surveillances for market abuse or manipulation in the options on the Fidelity Fund. Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. In addition to obtaining information from BZX, the Exchange would be able to obtain information regarding trading of shares of the Fidelity Fund through ISG.

In addition, Cboe has a Regulatory Services Agreement with the Financial Industry Regulatory Authority ("FINRA") for certain market surveillance, investigation and examinations functions. Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate amongst themselves and FINRA responsibilities to conduct certain options-related market surveillance that are common to rules of all options exchanges.[25] The underlying

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[23] The surveillance program includes surveillance patterns for price and volume movements as well as patterns for potential manipulation (e.g., spoofing and marking the close).

[24] Cboe BZX Exchange, Inc. is an affiliated market of the Exchange.

[25] Section 19(g)(1) of the Act, among other things, requires every self-regulatory organization ("SRO") registered as a national securities exchange or national securities association to comply

shares of spot Ethereum exchange-traded products ("ETPs"), including the Fidelity Fund, are also subject to safeguards related to addressing market abuse and manipulation. As the Commission stated in its order approving proposals of several exchanges to list and trade shares of spot Ethereum-based ETPs, "[e]ach Exchange has a comprehensive surveillance-sharing agreement with the [Chicago Mercantile Exchange ("CME")] via their common membership in the Intermarket Surveillance Group. This facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the CME bitcoin futures market."[26] The Exchange states that, given the consistently high correlation between the CME Ethereum futures market and the spot Ethereum market, as confirmed by the Commission through robust correlation analysis, the Commission was able to conclude that such surveillance sharing agreements could reasonably be "expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Ethereum ETPs]."[27] In light of surveillance measures related to both options and futures as well as the Fidelity Fund,[28] the Exchange believes that existing surveillance procedures are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading the proposed options on the Fidelity Fund. Further, the Exchange

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with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO ("common members"). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

26 See Ethereum ETP Approval Order, 89 FR at 46938.

27 See Ethereum ETP Approval Order, 89 FR at 46939.

28 See Amendment No. 2 to SR-CboeBZX-2023-095, Proposed Rule Change To List and Trade Shares of the Fidelity Ethereum Fund Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (filed May 21, 2024); see also Ethereum ETP Approval Order.

will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on the Fidelity Fund.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on the Fidelity Fund up to the number of expirations currently permissible under the Rules. Because the proposal is limited to one class, the Exchange believes any additional traffic that may be generated from the introduction of Fidelity Fund options will be manageable.

The Exchange believes that offering options on the Fidelity Fund will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of Ethereum and hedging vehicle to meet their investment needs in connection with Ethereum-related products and positions. The Exchange expects investors will transact in options on the Fidelity Fund in the unregulated over-the-counter ("OTC") options market,[29] but may prefer to trade such options in a listed environment to receive the benefits of trading listed options, including (1) enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Fidelity Fund options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The Units that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list

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29 The Exchange understands from customers that investors have historically transacted in options on Units in the OTC options market if such options were not available for trading in a listed environment.

and trade options are trusts structured in substantially the same manner as the Fidelity Fund and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any Unit options, including Units that hold commodities (i.e., precious metals) that it currently lists and trades on the Exchange. The Exchange notes that quotation and last sale information for shares of the Fidelity Fund are available from the CTA high-speed lines, as well as from BZX (on which the shares are primarily listed). Quotation and last sale information for options on the Fidelity Fund will be available from OPRA and market data vendors.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[30] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[31] requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and 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. Additionally, the Exchange believes the proposed rule change is

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

consistent with the Section 6(b)(5)[32] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on the Fidelity Fund will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the Fidelity Fund will provide investors with an opportunity to realize the benefits of utilizing options on the Fidelity Fund, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Fidelity Fund options will benefit investors by providing them with a relatively lower-cost risk management tool, which will allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of Ethereum and with Ethereum-related products and positions. Additionally, the Exchange's offering of Fidelity Fund options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists (or has the authority to list) options on other commodity-based Units,[33] which, as described above, are trusts structured in substantially the same manner as the Fidelity Fund and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (i.e., Ethereum rather than Bitcoin or precious

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32 Id.

33 See Rule 4.3, Interpretation and Policy .06(a)(4).

metals) and for which the Exchange has not identified any issues with the continued listing and trading of commodity-backed Unit options it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules previously filed with the Commission. Options on the Fidelity Fund satisfy the initial listing standards and continued listing standards currently in the Exchange Rules applicable to options on all Units, including Units that hold other commodities already deemed appropriate for options trading on the Exchange. Additionally, as demonstrated above, the Fidelity Fund is characterized by a substantial number of shares that are widely held and actively traded. Fidelity Fund options will trade in the same manner as any other Unit options — the same Exchange Rules that currently govern the listing and trading of all Unit options, including permissible expirations, strike prices and minimum increments, and applicable margin requirements, will govern the listing and trading of options on the Fidelity Fund in the same manner.

The Exchange believes the proposed position and exercise limits are designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade, as they are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. The proposed position and exercise limits in this Amendment No. 1 for Fidelity Fund options are 25,000 contracts, which is currently the lowest limit applicable to any equity options (including ETF options) and the position and exercise limits that apply to comparable ETFs that hold Bitcoin.[34] The Exchange believes the proposed position and exercise limits are extremely conservative for Fidelity Fund options given the trading volume and outstanding shares for the Fidelity Fund. The information above demonstrates that the average position and exercise limits of options on ETFs with comparable outstanding shares and trading volume to those of the Fidelity Fund are significantly higher than the proposed position and exercise limits for Fidelity Fund options. Therefore, the proposed position and exercise limits for Fidelity Fund options are conservative relative to options on ETFs with comparable market characteristics.

Further, given that the issuer of the Fidelity Fund may create and redeem shares that represent an interest in Ethereum, the Exchange believes it is relevant to compare the size of a position limit to the market capitalization of the Ethereum market. As of December 23, 2024, the global supply of Ethereum was approximately 120,000,000 coins, and the price of one Ethereum coin was approximately $3,494.25,[35] which equates to a market capitalization of approximately $419.31 billion. Consider the proposed position and exercise limit of 25,000 option contracts for the Fidelity Fund option. A position and exercise limit of 25,000 same side contracts effectively restricts a market participant from holding positions that could result in the receipt of no more than 2,500,000 of Fidelity Fund shares (if that market participant exercised all its options). Using a share price of $34.37 on December 23, 2024, the value of 2,500,000 shares of the Fidelity Fund at that price is

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34 See Rule 8.30. The Exchange notes in the initial Rule Filing, the position and exercise limit for the Fidelity Fund option would have been 25,000 contracts once the options began trading (pursuant to Rule 8.30, the Fidelity Fund option would have a higher position and exercise limit until the next time the Exchange conducted the review of limits). Therefore, this Amendment No. 1 is proposing to adopt a lower position and exercise limit as were practically proposed in the initial Rule Filing.

35 See Ethereum Price (ETH), Market Cap, Price Today & Chart History - Blockworks.

$85,925,000, and the approximate percentage of that value of the size of the Ethereum market is 0.02%. Therefore, if a market participant with the maximum 25,000 same side contracts in Fidelity Fund options exercised all positions at one time, such an event would have no practical impact on the Ethereum market.

The Exchange believes the proposed rule change to exclude the Fidelity Fund from being eligible for trading as FLEX options is consistent with the Act, because it will permit the Exchange to continue to participate in ongoing discussions with the Commission regarding appropriate position limits for ETF options.[36]

The Exchange also believes the proposed position and exercise limits are appropriate given position limits for Ethereum futures. For example, the Chicago Mercantile Exchange ("CME") imposes a position limit of 8,000 futures (for the initial spot month) on its Ethereum futures contract.[37] On December 23, 2024, CME Dec 24 Ethereum Futures settled at approximately $3,418.00. A position of 8,000 CME Ethereum futures, therefore, would have a notional value of $1,367,200,000. A position of approximately 397,789 option contracts would equate to that notional value.[38] This approximate number of option contracts for the Fidelity Fund that equate to the notional value of CME Ethereum futures is significantly higher than the proposed limit of 25,000 options contract for the

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[36] The Exchange may submit a separate rule filing that would permit the Exchange to authorize for trading FLEX options on the Fidelity (which filing may propose changes to existing FLEX option position limits for such options if appropriate).

[37] See CME Rulebook Chapter 349 (description of CME Ether Futures) and Chapter 5, Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices. Each CME Ethereum futures contract is valued at 50 Ethereum as defined by the CME CF Ether Reference Rate ("BRR"). See CME Rule 35001.

[38] The notional value of the futures is calculated as follows: 8,000 futures x 50 (the futures multiplier) x $3,418 (the price of one future) = $1,367,200,000. The number of option contracts that equates to that notional value is calculated as follows: $1,367,200,000 / notional value of one option contract ($34.37 (share price of Fidelity Fund) x 100 (option multiplier)) = 397,789 option contracts.

Fidelity Fund option. The fact that many options ultimately expire out-of-the-money and thus are not exercised for shares of the underlying, while the delta of a Ethereum Future is 1, further demonstrates how conservative the proposed limit of 25,000 options contracts are for the Fidelity Fund options.

The Exchange notes, unlike options contracts, CME position limits are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts according to an aggregation ratio(s).[39] Therefore, if a portfolio includes positions in options on futures, CME would aggregate those positions into the underlying futures contracts in accordance with a table published by CME on a delta equivalent value for the relevant spot month, subsequent spot month, single month and all month position limits.[40] If a position exceeds position limits because of an option assignment, CME permits market participants to liquidate the excess position within one business day without being considered in violation of its rules. Additionally, if at the close of trading, a position that includes options exceeds position limits for futures contracts, when evaluated using the delta factors as of that day's close of trading but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation. Considering CME's position limits on futures for Ethereum, the Exchange believes that that the proposed same side position limits are more than appropriate for Fidelity Fund options.

The Exchange believes the proposed position and exercise limits in this Amendment No. 1 will have no material impact to the supply of Ethereum. For example, consider again

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[39] See CME Rulebook Chapter 5, Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices.

[40] Id.

the proposed position limit of 25,000 option contracts for the Fidelity Fund option. As noted above, a position limit of 25,000 same side contracts effectively restricts a market participant from holding positions that could result in the receipt of no more than 2,500,000 shares of the Fidelity Fund (if that market participant exercised all its options). As of December 23, 2024, the Fidelity Fund had 41,700,000 shares outstanding. This means that the approximate number of market participants that could hold the maximum of 25,000 same side positions in the Fidelity Fund that would equate to the number of shares outstanding of that Fund is 16.

This means if 16 market participants had 25,000 same side positions in Fidelity Fund options, each of them would have to simultaneously exercise all of those options to create a scenario that may put the underlying security under stress. The Exchange believes it is highly unlikely for such an event to occur; however, even if either such event did occur, the Exchange would not expect the Fidelity Fund to be under stress because such an event would merely induce the creation of more shares through the trust's creation and redemption process.

As of December 23, 2024, the global supply of Ethereum was approximately 120,000,000, and the price of one Ethereum coin was approximately $3,418.00,[41] which equates to a market capitalization of approximately $419.31 billion. Based on the $34.37 price of a Fidelity Fund share on December 23, 2024, a market participant could have redeemed one Ethereum for approximately 99 Fidelity Fund shares. Another 11,880,000,000 Fidelity Fund shares could be created before the then-circulating global supply of Ethereum was exhausted. As a result, 4,752 market participants would have to simultaneously exercise 25,000 same side positions in Fidelity Fund options to receive

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41 See Ethereum Price (ETH), Market Cap, Price Today & Chart History - Blockworks.

shares of the Fidelity Fund holding the entire global supply of Ethereum. Unlike the Fidelity Fund, the number of shares that corporations may issue is limited. However, like corporations, which authorize additional shares, repurchase shares, or split their shares, the Fidelity Fund may create, redeem, or split shares in response to demand. Additionally, the supply of Ethereum is unlimited.[42] The current supply of Ethereum is larger than the available supply of most securities.[43] Given the significant unlikelihood of any of these events ever occurring, the Exchange does not believe options on the Fidelity Fund should be subject to position and exercise limits even lower than those proposed (which are already equal to the lowest available limit for equity options in the industry) to protect the supply of Ethereum.

The Exchange believes the available supply of Ethereum is not relevant to the determination of position and exercise limits for options overlying the Fidelity Fund.[44]

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42 See Ethereum Price (ETH), Market Cap, Price Today & Chart History - Blockworks; see also Amendment No. 5 to Form S-1 Registration Statement No. 333-278249, Fidelity Fund, filed July 17, 2024, at 17 (noting that approximately 1,700 Ethereum are issued per day, subject to various factors); and Amendment No. 3 to Form S-1 Registration Statement No. 333-257474, ARK 21 Fund, filed May 10, 2024, at 15 – 16 (noting that approximately 1,700 Ethereum are issued per day, subject to various factors).

43 The market capitalization of Ethereum would rank in the top 25 among securities. See https://companiesmarketcap.com/usa/largest-companies-in-the-usa-by-market-cap/.

44 The Exchange is unaware of any proposed rule change related to position and exercise limits for any equity option (including commodity ETF options) for which the Commission required consideration of whether the available supply of an underlying (whether it be a corporate stock or an ETF) or the contents of an ETF (commodity or otherwise) should be considered when an exchange proposed to establish those limits, other than recently with respect to ETFs that hold Bitcoin. See, e.g., Securities Exchange Act Release No. 57894 (May 30, 2008), 73 FR 32061 (June 5, 2008) (SR-CBOE-2005-11) (approval order in which the Commission stated that the "listing and trading of Gold Trust Options will be subject to the exchanges' rules pertaining to position and exercise limits and margin"); compare to Bitcoin ETF Option Approval. The Exchange notes when the Commission approved the filing to list options on an ETF holding gold, filing, the position limits in Rule 8.30 were the same as they are today. For reference, the current position and exercise limits for options on SPDR Gold Shares ETF ("GLD") and options on iShares Silver Trust ("SLV") are 250,000 contracts, or 10 times that proposed position and exercise limit for the Fidelity Fund options.

Position and exercise limits are not a tool that should be used to address a potential limited supply of the underlying of the instrument underlying the option (in this case, the Ethereum being held within the Fidelity Fund). Position and exercise limits do not limit the total number of options that may be held, but rather they limit the number of positions a single customer may hold or exercise at one time.[45] "Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise."[46] Position and exercise limit rules are intended "to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes."[47]

The Exchange notes that a Registration Statement on Form S-1 was filed with the Commission for the Fidelity Fund, which described the supply of Ethereum and the potential limits to that supply.[48] The Registration Statement permits an unlimited number of shares of the Fidelity Fund to be created. Further, the Commission approved the listing

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[45] For example, suppose an option has a position limit of 25,000 option contracts and there are a total of 10 investors trading that option. If all 10 investors max out their positions, that would result in 250,000 option contracts outstanding at that time. However, suppose 10 more investors decide to begin trading that option and also max out their positions. This would result in 500,000 option contracts outstanding at that time. An increase in the number of investors could cause an increase in outstanding options even if position limits remain unchanged.

[46] See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

[47] See id.

[48] See Amendment No. 5 to Form S-1 Registration Statement No. 333-278249, Fidelity Fund, filed July 17, 2024, at 17.

and trading of shares of the Fidelity Fund, which approval did not comment on the sufficient supply of Ethereum or address whether there was a risk that permitting an unlimited number of shares for the Fidelity Fund would impact the supply of Ethereum.[49] Therefore, the Exchange believes the Commission had ample time and opportunity to consider whether the supply of Ethereum was sufficient to permit the creation of unlimited Fidelity Fund shares, and does not believe considering this supply with respect to the establishment of position and exercise limits is appropriate given its lack of relevance to the purpose of position and exercise limits. However, given the significant size of the Ethereum supply, the proposed positions limit is more than sufficient to protect investors and the market.

Based on the above information demonstrating, among other things, that the Fidelity Fund is characterized by a substantial number of outstanding shares that are actively traded and widely held, the Exchange believes the proposed position and exercise limits are extremely conservative compared to those of ETF options with similar market characteristics. The proposed position and exercise limits reasonably and appropriately balance the liquidity provisioning in the market against the prevention of manipulation. The Exchange believes these proposed limits are effectively designed to prevent an individual customer or entity from establishing options positions that could be used to manipulate the market of the underlying as well as the Ethereum market.[50]

The Exchange represents that it has the necessary systems capacity to support the new Fidelity Fund options. As discussed above, the Exchange believes that its existing

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[49] See Ethereum ETP Approval Order.

[50] See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading Unit options, including Fidelity Fund options.

Item 4. 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 purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as options on the Fidelity Fund will be equally available to all market participants who wish to trade such options and will trade generally in the same manner as other options. The Exchange Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Fidelity Fund options on the Exchange in the same manner as they apply to other options on all other Units that are listed and traded on the Exchange. Also, and as stated above, the Commission has approved the trading of options on other commodity-based Units.[51] Further, the Fidelity Fund would need to satisfy the maintenance listing standards set forth in the Exchange Rules in the same manner as any other Unit for the Exchange to continue listing options on them.

The Exchange does not believe that the proposal to list and trade options on the Fidelity Fund will impose any burden on intermarket competition that is not necessary or

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[51] See Rule 4.3, Interpretation and Policy .06(a)(4).

appropriate in furtherance of the purposes of the Act. To the extent that the advent of Fidelity Fund options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on the Fidelity Fund. The Exchange notes that listing and trading Fidelity Fund options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market.

The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition, as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Fidelity Fund options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with Ethereum prices and Ethereum-related products and positions on a listed options exchange.

Item 5. <u>Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others</u>

The Exchange neither solicited nor received written comments on the proposed rule change.

Item 6. **Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission action on the proposed rule change specified in Section 19(b)(2) of the Act.[52]

Item 7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) The Exchange requests accelerated approval of this Amendment No. 1. Amendment No. 1 narrows the scope to options on the Fidelity Fund. Additionally, this Amendment No. 1 amends the proposed position and exercise limits for Fidelity Fund options, to be 25,000 option contracts; however, given this is currently the lowest limit applicable to any equity option that applies to options upon initial listing (and thus would have applied to Fidelity Fund options had the Initial Rule Filing been approved without amendment), this change had no practical impact. The proposed rule filing imposes specific position and exercise limits on the Fidelity Fund option rather than permit those limits to be adjusted every six months, as occurs for the majority of other equity options (including ETF options). The proposed limits are 25,000 contracts, and thus will be the same size as the currently lowest possible position limit for any ETF option. Further, as demonstrated above, these proposed limits are extremely conservative compared to position and exercise limits of options on ETFs with similar market characteristics. Additionally, these proposed position and exercise limits are the same as those for options on ETFs that hold Bitcoin, as recently approved by the

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[52] 15 U.S.C. 78s(b)(2).

Commission.[53] Amendment No. 1 also excludes Fidelity Fund options from being available for FLEX trading (as is currently true for options on ETFs that hold Bitcoin), which has no impact on how the proposed Fidelity Fund options will generally trade on the Exchange. Amendment No. 1 also provides additional detail regarding the Exchange's surveillance procedures. Therefore, the Exchange believes accelerated approval is appropriate.

Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 4. Marked copy of changes to the rule text proposed in an amendment compared against the version of the rule text that was initially filed.

Exhibit 5. Proposed rule text.

53 Bitcoin ETF Option Approval.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CBOE-2024-036]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Amend Rules 4.3, 4.20, and 8.30

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on [insert date], Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "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

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to list options on Ethereum ETFs. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), 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

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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 Rule 4.3 regarding the criteria for underlying securities. Specifically, the Exchange proposes to amend Rule 4.3, Interpretation and Policy .06(a)(4) to allow the Exchange to list and trade options on Units[3] that represent interests in the Fidelity Ethereum Fund (the "Fidelity Fund")[4], designating them as "Units" deemed appropriate for options trading on the Exchange. Current Rule 4.3, Interpretation and Policy .06 provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Units that represent certain types of interests,[5]

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3 Rule 1.1 defines a "Unit" (which may also be referred to as an ETF) as a share or other security traded on a national securities exchange and defined as an NMS stock as set forth in Rule 4.3.

4 See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2023-70; SR-NYSEArca-2024-31; SR-NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023-087; SR-CboeBZX-2023-095; and SRCboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) ("Ethereum ETP Approval Order").

5 See Rule 4.3, Interpretation and Policy .06(a), which permits options trading on Units that represent (1) interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse purchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust ("Currency Trust Shares");

including interests in certain specific trusts that hold financial instruments, money market instruments, precious metals (which are deemed commodities), or Bitcoin (which is also deemed a commodity).

The Fidelity Fund is an Ethereum-backed commodity ETF structured as a trust. Similar to any Unit currently deemed appropriate for options trading under Rule 4.3, Interpretation and Policy .06, the investment objective of the Fidelity Fund is for its shares to reflect the performance of Ethereum (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to Ethereum without the complexities of Ethereum delivery. As is the case for Units currently deemed appropriate for options trading, the Fidelity Fund's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of Ethereum and are designed to track Ethereum or the performance of the price of Ethereum and offer access to the Ethereum market.[6] The Fidelity Fund provides investors with cost-efficient alternatives that allow a level of participation in the Ethereum market through the securities market. The primary substantive difference

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(3) commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool Units"); (4) interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Silver Trust, the Aberdeen Standard Physical Gold Trust, the Aberdeen Standard Physical Palladium Trust, the Aberdeen Standard Physical Platinum Trust, the Sprott Physical Gold Trust, the Goldman Sachs Physical Gold ETF, the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, or the Bitwise Bitcoin ETF; or (5) 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, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share").

6 The trust may include minimal cash.

between the Fidelity Fund and Units currently deemed appropriate for options trading are that Units may hold securities, certain financial instruments, specified precious metals (which are deemed commodities), and Bitcoin (which is also deemed a commodity), while the Fidelity Fund holds Ethereum (which is also deemed a commodity).

The Exchange believes the Fidelity Fund satisfies the Exchange's initial listing standards for Units on which the Exchange may list options. Specifically, the Fidelity Fund satisfies the initial listing standards set forth in Rule 4.3, Interpretation and Policy .06(b), as is the case for other Units on which the Exchange lists options (including trusts that hold commodities). Rule 4.3, Interpretation and Policy .06 requires that Units must either (1) meet the criteria and standards set forth in Rule 4.3, Interpretation and Policy .01(a),[7] or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the prospectus. The Fidelity Fund satisfies Rule 4.3, Interpretation and Policy .06(b)(2), as it is subject to this creation and redemption process.

While not required by the Rules for purposes of options listings, the Exchange believes the Fidelity Fund satisfies the criteria and guidelines set forth in Rule 4.3,

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[7] Rule 4.3, Interpretation and Policy .01 provides for guidelines to be by the Exchange when evaluating potential underlying securities for Exchange option transactions.

Interpretation and Policy .01. Pursuant to Rule 4.3(a), a security (which includes a Unit) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934, as amended (the "Act")), and be characterized by a substantial number of outstanding shares that are widely held and actively traded.[8] The Fidelity Fund is an NMS Stock as defined in Rule 600 of Regulation NMS under the Act.[9] The Exchange believes the Fidelity Fund is characterized by a substantial number of outstanding shares that are widely held and actively traded.

As of December 23, 2024, the Fidelity Fund had 41,700,000 shares outstanding, which is nearly six times more than the minimum number of shares of a corporate stock (i.e., 7,000,000 shares) that the Exchange generally requires to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(1). The Exchange believes this demonstrates that the Fidelity Fund is characterized by a substantial number of outstanding shares.

Further, as of November 26, 2024, there were 38,170 beneficial holders of shares of the Fidelity Fund, which is significantly more than 2,000 beneficial holders (approximately 19 times more), which is the minimum number of holders the Exchange generally requires for corporate stock in order to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(2). Therefore, the Exchange believes the shares of the Fidelity Fund are widely held.[10]

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8 The criteria and guidelines for a security to be considered widely held and actively traded are set forth in Rule 4.3, Interpretation and Policy .01, subject to exceptions.

9 An "NMS stock" means any NMS security other than an option, and an "NMS security" means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan (or an effective national market system plan for reporting transaction in listed options). See 17 CFR § 242.600(b)(64) (definition of "NMS security") and (65) (definition of "NMS stock").

10 The Exchange continues to believe assets under management ("AUM"), rather than shares

The Exchange also believes the shares of the Fidelity Fund are actively traded. As of December 23, 2024, the total trading volume (by shares) and the approximate average daily volume ("ADV") (in shares and notional) from July 23, 2024 (the date on which shares of the Fidelity Fund began trading) to December 23, 2024 for the Fidelity Fund was as follows:

Trading Volume (Shares)	ADV (Shares)	ADV (Notional $)
115,589,047	1,070,269	33,864,193

As demonstrated above, despite the fact that the Fidelity Fund has been trading for approximately five months as of December 23, 2024, its total trading volume as of that date was substantially higher than 2,400,000 shares (more than 48 times that amount), which is the minimum 12-month volume the Exchange generally requires for a corporate stock in order to list options on that security as set forth in Rule 4.3, Interpretation and Policy .01. Additionally, as of December 23, 2024, the trading volume for the Fidelity Fund was in the top 5% of all ETFs that are currently trading. The Exchange believes this data demonstrates the Fidelity Fund is characterized as having shares that are actively traded.

Options on the Fidelity Fund will be subject to the Exchange's continued listing standards set forth in Rule 4.4, Interpretation and Policy .06 for Units deemed appropriate for options trading pursuant to Rule 4.3, Interpretation and Policy .06. Specifically, Rule 4.4, Interpretation and Policy .06 provides that Units that were initially approved for options trading pursuant to Rule 4.3, Interpretation and Policy .06 shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that such Units, if the Units cease to

outstanding and number of holders, is a better measure of investable capacity of ETFs and a more appropriate figure for determining position and exercise limits of ETFs and looks forward to further discussions with the Commission staff on this topic.

be an NMS stock or the Units are halted from trading in their primary market. Additionally, options on Units may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering Units approved for trading under Rule 4.3, Interpretation and Policy .06(b)(1), in accordance with the terms of paragraphs (a), (b), and (c) of Rule 4.4, Interpretation and Policy .01; (2) in the case of options covering Units approved for trading under Rule 4.3 Interpretation and Policy .06(b)(2) (as is the case for the Fidelity Fund), following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange and are defined as an NMS stock, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on the Fidelity Fund will be physically settled contracts with American-style exercise.[11] Consistent with current Rule 4.5, which governs the opening of options series on a specific underlying security (including Units), the Exchange will open at least one expiration

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11 See Rule 4.2, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation ("OCC"); and Equity Options Product Specifications January 3, 2024), available at Equity Options Specifications (cboe.com); see also OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

month for options on the Fidelity Fund[12] at the commencement of trading on the Exchange and may also list series of options on the Fidelity Fund for trading on a weekly,[13] monthly,[14] or quarterly[15] basis. The Exchange may also list long-term equity option series ("LEAPS") that expire from 12 to 180 months from the time they are listed.

Pursuant to Rule 4.5, Interpretation and Policy .07, which governs strike prices of series of options on Units, the interval of strikes prices for series of options on the Fidelity Fund will be $1 or greater when the strike price is $200 or less and $5 or greater where the strike price is over $200.[16] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[17] the $0.50 Strike Program,[18] the $2.50 Strike Price Program,[19] and the $5 Strike Program.[20] Pursuant to Rule 5.4, where the price of a series of

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12 See Rule 4.5(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 4.3. Monthly listings expire the third Friday of the month. The term "expiration date" (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. See OCC By-Laws Article I, Section 1. Pursuant to Rule 4.5(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

13 See Rule 4.5(d).

14 See Rule 4.5(g).

15 See Rule 4.5(e).

16 The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Monthly Options Series Program, and the Quarterly Options Series Program, Rules 4.5(d), (e), and (g) specifically sets forth intervals between strike prices on Quarterly Options Series, Short Term Option Series, and Monthly Options Series, respectively.

17 See Rule 4.5, Interpretation and Policy .01(a).

18 See Rule 4.5, Interpretation and Policy .01(b).

19 See Rule 4.5, Interpretation and Policy .04.

20 See Rule 4.5, Interpretation and Policy .01(f).

a Fidelity Fund option is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[21] Any and all new series of Fidelity Fund options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 4.5 and 5.4, as applicable.

The Exchange also proposes to amend Rule 8.30. Specifically, the Exchange proposes to adopt Rule 8.30, Interpretation and Policy .10 to provide a position limit of 25,000 same side option contracts for the Fidelity Fund option. Additionally, pursuant to Rule 8.42, Interpretation and Policy .02, the exercise limits for options on the Fidelity Fund will be equivalent to this proposed position limit.

The Exchange determined these proposed position and exercise limits considering, among other things, the ADV (since trading of the Fidelity Fund began on July 23, 2024) and outstanding shares of the Fidelity Fund (which as discussed above demonstrate that the Fidelity Fund is widely held and actively traded and thus justify these conservatively proposed position limits), as set forth below, along with market capitalization (as of December 23, 2024):

ADV (shares)	Outstanding Shares	Market Capitalization ($)
1,070,269	41,700,000	1,433,229,000

21 If options on the Fidelity Fund are eligible to participate in the Penny Interval Program, the minimum increment will be $0.01 for series with a price below $3.00 and $0.05 for series with a price at or above $3.00. See 5.4(d) (which describes the requirements for the Penny Interval Program).

The Exchange then compared the number of outstanding shares of the Fidelity Fund to those of other ETFs. The approximate average position (and exercise limit) of ETF options with similar outstanding shares (as of December 31, 2024) was approximately 102,703 contracts, which is significantly higher (approximately 4 times) than the proposed position and exercise limit of 25,000 contracts for Fidelity Fund options.[22] As discussed above, shares of the Fidelity Fund are actively held and widely traded: (1) the Fidelity Fund (as of December 23, 2024) had significantly more than 7,000,000 shares outstanding, which is the minimum number of shares of a corporate stock that the Exchange generally requires to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(1); (2) the Fidelity Fund (as of November 26, 2024) had significantly more than 2,000 beneficial holders, which is the minimum number of holders the Exchange generally requires for corporate stock in order to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01(a)(2); and (3) the Fidelity Fund had a trading volume in the approximately five-month time period since it began trading substantially higher than 2,400,000 shares, which is the minimum 12-month volume the Exchange generally requires for a security in order to list options on that security as set forth in Rule 4.3, Interpretation and Policy .01.

With respect to outstanding shares, if a market participant held the maximum number of positions possible pursuant to the proposed position and exercise limits, the equivalent shares represented by the proposed position/exercise limit would represent approximately 6.0% of the 41,700,000 current outstanding shares of the Fidelity Fund. Therefore, if a market participant held the maximum permissible options positions in Fidelity Fund options and

[22] The position limits for those ETF options for which the underlying ETFs had similar outstanding shares were all 50,000 or above, and nearly half of them had position limits of 200,000 or 250,000 contracts.

exercised all of them at the same time, that market participant would control a small percentage of the outstanding shares of the Fidelity Fund.

Cboe Options Rule 8.30, Interpretation and Policy .02, provides two methods of qualifying for a position limit tier above 25,000 option contracts. The first method is based on six-month trading volume in the underlying security, and the second method is based on slightly lower six-month trading volume *and* number of shares outstanding in the underlying security. An underlying stock or ETF that qualifies for method two based on trading volume and number of shares outstanding would be required to have the minimum number of outstanding shares as shown in middle column of the table below.

The table, which provides the equivalent shares of the position limits applicable to equity options, including ETFs, further represents the percentages of the minimum number of outstanding shares that an underlying stock or ETF must have to qualify for that position limit (under the second method described above).

Position/Exercise Limit (in equivalent shares)	**Minimum Outstanding Shares**	**Percentage of Outstanding Shares**
2,500,000	6,300,000	40.0%
5,000,000	40,000,000	12.5%
7,500,000	120,000,000	6.3%
20,000,000	240,000,000	8.3%
25,000,000	300,000,000	8.3%

The equivalent shares represented by the proposed position and exercise limits for the Fidelity Fund as a percentage of outstanding shares of the Fidelity Fund is significantly lower than the percentage for the lowest possible position limit for equity options of 25,000, which is the position limit the Exchange is proposing for Fidelity Fund options.[23]

Further, the proposed position and exercise limit for Fidelity Fund options is equal to the lowest position and exercise limits available in the options industry for equity options, are extremely conservative and more than appropriate given the market capitalization, average daily volume, and high number of outstanding shares of the Fidelity Fund. The proposed position and exercise limit for the Fidelity Fund is also equal to the position and exercise limits for ETFs that hold Bitcoin, as recently approved by the Commission.[24]

All of the above information demonstrates that the proposed position and exercise limits for Fidelity Fund options are more than reasonable and appropriate. The trading volume, ADV, and outstanding shares of the Fidelity Fund demonstrate that its shares are actively traded and widely held, and proposed position and exercise limit is well below those of options on other ETFs with similar market characteristics. The proposed position and exercise limit would be the lowest position and exercise limit available for equity options in the industry, are extremely conservative, and are more than appropriate given the Fidelity Fund's market capitalization, ADV, and high number of outstanding shares.

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[23] As these percentages are based on the minimum number of outstanding shares an underlying security must have to qualify for the applicable position limit, these are the highest possible percentages that would apply to any option subject to that position and exercise limit. 6,300,000 is the minimum number of outstanding shares an underlying security must have for the Exchange to continue to list options on that security, so this would be the smallest number of outstanding shares permissible for any corporate option that would have a position limit of 25,000 contract. See Rule 4.5, Interpretation and Policy .01. This rule applies to corporate stock options but not ETF options, which currently have no requirement regarding outstanding shares of the underlying ETF for the Exchange to continue listing options on that ETF. Therefore, there may be ETF options trading for which the 25,000 contract position limit represents an even larger percentage of outstanding shares of the underlying ETF than set forth above.

[24] See Securities Exchange Act Release No. 101387 (October 18, 2024), 89 FR 84948 (October 24, 2024) (SR-CBOE-2024-035) ("Bitcoin ETF Option Approval"); see also Rule 8.30, Interpretation and Policy .10.

Rule 4.20 currently permits the Exchange to authorize for trading a FLEX option class on any equity security if it may authorize for a trading a non-FLEX option class on that equity security pursuant to Rule 4.3. The proposed rule change amends Rule 4.20 to exclude the Fidelity Fund from this provision.

Fidelity Fund options will trade in the same manner as any other Unit options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Fidelity Fund options on the Exchange in the same manner as they apply to other options on all other Units that are listed and traded on the Exchange, including the precious-metal backed commodity Units already deemed appropriate for options trading on the Exchange pursuant to current Rule 4.3, Interpretation and Policy .06(a)(4).

Today, the Exchange has an adequate surveillance program in place for options. Cboe intends to apply those same program procedures to options on the Fidelity Fund that it applies to the Exchange's other options products.[25] Cboe's market surveillance staff would have access to the surveillances conducted by Cboe BZX Exchange, Inc. ("BZX")[26] with respect to the Fidelity Fund and would review activity in the Fidelity Fund when conducting surveillances for market abuse or manipulation in the options on the Fidelity Fund. Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate

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25 The surveillance program includes surveillance patterns for price and volume movements as well as patterns for potential manipulation (e.g., spoofing and marking the close).

26 Cboe BZX Exchange, Inc. is an affiliated market of the Exchange.

surveillance and investigative information sharing in the stock, options, and futures markets. In addition to obtaining information from BZX, the Exchange would be able to obtain information regarding trading of shares of the Fidelity Fund through ISG.

In addition, Cboe has a Regulatory Services Agreement with the Financial Industry Regulatory Authority ("FINRA") for certain market surveillance, investigation and examinations functions. Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate amongst themselves and FINRA responsibilities to conduct certain options-related market surveillance that are common to rules of all options exchanges.[27] The underlying shares of spot Ethereum exchange-traded products ("ETPs"), including the Fidelity Fund, are also subject to safeguards related to addressing market abuse and manipulation. As the Commission stated in its order approving proposals of several exchanges to list and trade shares of spot Ethereum-based ETPs, "[e]ach Exchange has a comprehensive surveillance-sharing agreement with the [Chicago Mercantile Exchange ("CME")] via their common membership in the Intermarket Surveillance Group. This facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the CME bitcoin futures market."[28] The Exchange states that, given the consistently high correlation between the CME Ethereum futures market and the spot Ethereum market, as

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27 Section 19(g)(1) of the Act, among other things, requires every self-regulatory organization ("SRO") registered as a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO ("common members"). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

28 See Ethereum ETP Approval Order, 89 FR at 46938.

confirmed by the Commission through robust correlation analysis, the Commission was able to conclude that such surveillance sharing agreements could reasonably be "expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Ethereum ETPs]."[29] In light of surveillance measures related to both options and futures as well as the Fidelity Fund,[30] the Exchange believes that existing surveillance procedures are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading the proposed options on the Fidelity Fund. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on the Fidelity Fund.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on the Fidelity Fund up to the number of expirations currently permissible under the Rules. Because the proposal is limited to one class, the Exchange believes any additional traffic that may be generated from the introduction of Fidelity Fund options will be manageable.

The Exchange believes that offering options on the Fidelity Fund will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of Ethereum and hedging vehicle to meet their investment needs in connection with Ethereum-related products and positions. The Exchange expects investors will transact in options on the Fidelity Fund in the unregulated over-the-counter ("OTC")

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29 See Ethereum ETP Approval Order, 89 FR at 46939.

30 See Amendment No. 2 to SR-CboeBZX-2023-095, Proposed Rule Change To List and Trade Shares of the Fidelity Ethereum Fund Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (filed May 21, 2024); see also Ethereum ETP Approval Order.

options market,[31] but may prefer to trade such options in a listed environment to receive the benefits of trading listed options, including (1) enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Fidelity Fund options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The Units that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as the Fidelity Fund and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any Unit options, including Units that hold commodities (i.e., precious metals) that it currently lists and trades on the Exchange. The Exchange notes that quotation and last sale information for shares of the Fidelity Fund are available from the CTA high-speed lines, as well as from BZX (on which the shares are primarily listed). Quotation and last sale information for options on the Fidelity Fund will be available from OPRA and market data vendors.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the

[31] The Exchange understands from customers that investors have historically transacted in options on Units in the OTC options market if such options were not available for trading in a listed environment.

requirements of Section 6(b) of the Act.[32] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[33] requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[34] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on the Fidelity Fund will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the Fidelity Fund will provide investors with an opportunity to realize the benefits of utilizing options on the Fidelity Fund, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Fidelity Fund options will benefit investors by providing them with a relatively lower-cost risk management tool, which will allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of Ethereum and with Ethereum-related products and positions. Additionally, the Exchange's offering of Fidelity Fund options will provide investors with the ability to transact in such options in a listed market

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32 15 U.S.C. 78f(b).

33 15 U.S.C. 78f(b)(5).

34 Id.

environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists (or has the authority to list) options on other commodity-based Units,[35] which, as described above, are trusts structured in substantially the same manner as the Fidelity Fund and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (i.e., Ethereum rather than Bitcoin or precious metals) and for which the Exchange has not identified any issues with the continued listing and trading of commodity-backed Unit options it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules previously filed with the Commission. Options on the Fidelity Fund satisfy the initial listing standards and continued listing standards currently in the Exchange Rules applicable to options on all Units, including Units that hold other commodities already deemed appropriate for options trading on the Exchange. Additionally, as demonstrated above, the Fidelity Fund is characterized by a substantial number of shares that are widely held and actively traded. Fidelity Fund options will trade in the same manner as any other Unit options — the same Exchange Rules that currently govern the listing and trading of all Unit options, including permissible expirations, strike prices and minimum increments, and applicable margin requirements, will govern the listing and trading of options on the Fidelity Fund in the same manner.

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35 See Rule 4.3, Interpretation and Policy .06(a)(4).

The Exchange believes the proposed position and exercise limits are designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade, as they are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. The proposed position and exercise limits in this Amendment No. 1 for Fidelity Fund options are 25,000 contracts, which is currently the lowest limit applicable to any equity options (including ETF options) and the position and exercise limits that apply to comparable ETFs that hold Bitcoin.[36] The Exchange believes the proposed position and exercise limits are extremely conservative for Fidelity Fund options given the trading volume and outstanding shares for the Fidelity Fund. The information above demonstrates that the average position and exercise limits of options on ETFs with comparable outstanding shares and trading volume to those of the Fidelity Fund are significantly higher than the proposed position and exercise limits for Fidelity Fund options. Therefore, the proposed position and exercise limits for Fidelity Fund options are conservative relative to options on ETFs with comparable market characteristics.

Further, given that the issuer of the Fidelity Fund may create and redeem shares that represent an interest in Ethereum, the Exchange believes it is relevant to compare the size of a position limit to the market capitalization of the Ethereum market. As of December 23, 2024, the global supply of Ethereum was approximately 120,000,000 coins, and the price of one Ethereum coin was approximately $3,494.25,[37] which equates to a

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[36] See Rule 8.30. The Exchange notes in the initial Rule Filing, the position and exercise limit for the Fidelity Fund option would have been 25,000 contracts once the options began trading (pursuant to Rule 8.30, the Fidelity Fund option would have a higher position and exercise limit until the next time the Exchange conducted the review of limits). Therefore, this Amendment No. 1 is proposing to adopt a lower position and exercise limit as were practically proposed in the initial Rule Filing.

[37] See Ethereum Price (ETH), Market Cap, Price Today & Chart History - Blockworks.

market capitalization of approximately $419.31 billion. Consider the proposed position and exercise limit of 25,000 option contracts for the Fidelity Fund option. A position and exercise limit of 25,000 same side contracts effectively restricts a market participant from holding positions that could result in the receipt of no more than 2,500,000 of Fidelity Fund shares (if that market participant exercised all its options). Using a share price of $34.37 on December 23, 2024, the value of 2,500,000 shares of the Fidelity Fund at that price is $85,925,000, and the approximate percentage of that value of the size of the Ethereum market is 0.02%. Therefore, if a market participant with the maximum 25,000 same side contracts in Fidelity Fund options exercised all positions at one time, such an event would have no practical impact on the Ethereum market.

The Exchange believes the proposed rule change to exclude the Fidelity Fund from being eligible for trading as FLEX options is consistent with the Act, because it will permit the Exchange to continue to participate in ongoing discussions with the Commission regarding appropriate position limits for ETF options.[38]

The Exchange also believes the proposed position and exercise limits are appropriate given position limits for Ethereum futures. For example, the Chicago Mercantile Exchange ("CME") imposes a position limit of 8,000 futures (for the initial spot month) on its Ethereum futures contract.[39] On December 23, 2024, CME Dec 24 Ethereum Futures settled at approximately $3,418.00. A position of 8,000 CME Ethereum futures,

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38 The Exchange may submit a separate rule filing that would permit the Exchange to authorize for trading FLEX options on the Fidelity (which filing may propose changes to existing FLEX option position limits for such options if appropriate).

39 See CME Rulebook Chapter 349 (description of CME Ether Futures) and Chapter 5, Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices. Each CME Ethereum futures contract is valued at 50 Ethereum as defined by the CME CF Ether Reference Rate ("BRR"). See CME Rule 35001.

therefore, would have a notional value of $1,367,200,000. A position of approximately 397,789 option contracts would equate to that notional value.[40] This approximate number of option contracts for the Fidelity Fund that equate to the notional value of CME Ethereum futures is significantly higher than the proposed limit of 25,000 options contract for the Fidelity Fund option. The fact that many options ultimately expire out-of-the-money and thus are not exercised for shares of the underlying, while the delta of a Ethereum Future is 1, further demonstrates how conservative the proposed limit of 25,000 options contracts are for the Fidelity Fund options.

The Exchange notes, unlike options contracts, CME position limits are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts according to an aggregation ratio(s).[41] Therefore, if a portfolio includes positions in options on futures, CME would aggregate those positions into the underlying futures contracts in accordance with a table published by CME on a delta equivalent value for the relevant spot month, subsequent spot month, single month and all month position limits.[42] If a position exceeds position limits because of an option assignment, CME permits market participants to liquidate the excess position within one business day without being considered in violation of its rules. Additionally, if at the close of trading, a position that includes options exceeds position limits for futures contracts, when evaluated using the delta factors as of that day's close of trading but does not exceed

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40 The notional value of the futures is calculated as follows: 8,000 futures x 50 (the futures multiplier) x $3,418 (the price of one future) = $1,367,200,000. The number of option contracts that equates to that notional value is calculated as follows: $1,367,200,000 / notional value of one option contract ($34.37 (share price of Fidelity Fund) x 100 (option multiplier)) = 397,789 option contracts.

41 See CME Rulebook Chapter 5, Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices.

42 Id.

the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation. Considering CME's position limits on futures for Ethereum, the Exchange believes that that the proposed same side position limits are more than appropriate for Fidelity Fund options.

The Exchange believes the proposed position and exercise limits in this Amendment No. 1 will have no material impact to the supply of Ethereum. For example, consider again the proposed position limit of 25,000 option contracts for the Fidelity Fund option. As noted above, a position limit of 25,000 same side contracts effectively restricts a market participant from holding positions that could result in the receipt of no more than 2,500,000 shares of the Fidelity Fund (if that market participant exercised all its options). As of December 23, 2024, the Fidelity Fund had 41,700,000 shares outstanding. This means that the approximate number of market participants that could hold the maximum of 25,000 same side positions in the Fidelity Fund that would equate to the number of shares outstanding of that Fund is 16.

This means if 16 market participants had 25,000 same side positions in Fidelity Fund options, each of them would have to simultaneously exercise all of those options to create a scenario that may put the underlying security under stress. The Exchange believes it is highly unlikely for such an event to occur; however, even if either such event did occur, the Exchange would not expect the Fidelity Fund to be under stress because such an event would merely induce the creation of more shares through the trust's creation and redemption process.

As of December 23, 2024, the global supply of Ethereum was approximately 120,000,000, and the price of one Ethereum coin was approximately \$3,418.00,[43] which

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43 See Ethereum Price (ETH), Market Cap, Price Today & Chart History - Blockworks.

equates to a market capitalization of approximately $419.31 billion. Based on the $34.37 price of a Fidelity Fund share on December 23, 2024, a market participant could have redeemed one Ethereum for approximately 99 Fidelity Fund shares. Another 11,880,000,000 Fidelity Fund shares could be created before the then-circulating global supply of Ethereum was exhausted. As a result, 4,752 market participants would have to simultaneously exercise 25,000 same side positions in Fidelity Fund options to receive shares of the Fidelity Fund holding the entire global supply of Ethereum. Unlike the Fidelity Fund, the number of shares that corporations may issue is limited. However, like corporations, which authorize additional shares, repurchase shares, or split their shares, the Fidelity Fund may create, redeem, or split shares in response to demand. Additionally, the supply of Ethereum is unlimited.[44] The current supply of Ethereum is larger than the available supply of most securities.[45] Given the significant unlikelihood of any of these events ever occurring, the Exchange does not believe options on the Fidelity Fund should be subject to position and exercise limits even lower than those proposed (which are already equal to the lowest available limit for equity options in the industry) to protect the supply of Ethereum.

The Exchange believes the available supply of Ethereum is not relevant to the determination of position and exercise limits for options overlying the Fidelity Fund.[46]

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44 See Ethereum Price (ETH), Market Cap, Price Today & Chart History - Blockworks; see also Amendment No. 5 to Form S-1 Registration Statement No. 333-278249, Fidelity Fund, filed July 17, 2024, at 17 (noting that approximately 1,700 Ethereum are issued per day, subject to various factors); and Amendment No. 3 to Form S-1 Registration Statement No. 333-257474, ARK 21 Fund, filed May 10, 2024, at 15 – 16 (noting that approximately 1,700 Ethereum are issued per day, subject to various factors).

45 The market capitalization of Ethereum would rank in the top 25 among securities. See https://companiesmarketcap.com/usa/largest-companies-in-the-usa-by-market-cap/.

46 The Exchange is unaware of any proposed rule change related to position and exercise limits for any equity option (including commodity ETF options) for which the Commission required

Position and exercise limits are not a tool that should be used to address a potential limited supply of the underlying of the instrument underlying the option (in this case, the Ethereum being held within the Fidelity Fund). Position and exercise limits do not limit the total number of options that may be held, but rather they limit the number of positions a single customer may hold or exercise at one time.[47] "Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise."[48] Position and exercise limit rules are intended "to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes."[49]

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consideration of whether the available supply of an underlying (whether it be a corporate stock or an ETF) or the contents of an ETF (commodity or otherwise) should be considered when an exchange proposed to establish those limits, other than recently with respect to ETFs that hold Bitcoin. See, e.g., Securities Exchange Act Release No. 57894 (May 30, 2008), 73 FR 32061 (June 5, 2008) (SR-CBOE-2005-11) (approval order in which the Commission stated that the "listing and trading of Gold Trust Options will be subject to the exchanges' rules pertaining to position and exercise limits and margin"); compare to Bitcoin ETF Option Approval. The Exchange notes when the Commission approved the filing to list options on an ETF holding gold, filing, the position limits in Rule 8.30 were the same as they are today. For reference, the current position and exercise limits for options on SPDR Gold Shares ETF ("GLD") and options on iShares Silver Trust ("SLV") are 250,000 contracts, or 10 times that proposed position and exercise limit for the Fidelity Fund options.

47 For example, suppose an option has a position limit of 25,000 option contracts and there are a total of 10 investors trading that option. If all 10 investors max out their positions, that would result in 250,000 option contracts outstanding at that time. However, suppose 10 more investors decide to begin trading that option and also max out their positions. This would result in 500,000 option contracts outstanding at that time. An increase in the number of investors could cause an increase in outstanding options even if position limits remain unchanged.

48 See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

49 See id.

The Exchange notes that a Registration Statement on Form S-1 was filed with the Commission for the Fidelity Fund, which described the supply of Ethereum and the potential limits to that supply.[50] The Registration Statement permits an unlimited number of shares of the Fidelity Fund to be created. Further, the Commission approved the listing and trading of shares of the Fidelity Fund, which approval did not comment on the sufficient supply of Ethereum or address whether there was a risk that permitting an unlimited number of shares for the Fidelity Fund would impact the supply of Ethereum.[51] Therefore, the Exchange believes the Commission had ample time and opportunity to consider whether the supply of Ethereum was sufficient to permit the creation of unlimited Fidelity Fund shares, and does not believe considering this supply with respect to the establishment of position and exercise limits is appropriate given its lack of relevance to the purpose of position and exercise limits. However, given the significant size of the Ethereum supply, the proposed positions limit is more than sufficient to protect investors and the market.

Based on the above information demonstrating, among other things, that the Fidelity Fund is characterized by a substantial number of outstanding shares that are actively traded and widely held, the Exchange believes the proposed position and exercise limits are extremely conservative compared to those of ETF options with similar market characteristics. The proposed position and exercise limits reasonably and appropriately balance the liquidity provisioning in the market against the prevention of manipulation. The Exchange believes these proposed limits are effectively designed to prevent an

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50 See Amendment No. 5 to Form S-1 Registration Statement No. 333-278249, Fidelity Fund, filed July 17, 2024, at 17.

51 See Ethereum ETP Approval Order.

individual customer or entity from establishing options positions that could be used to manipulate the market of the underlying as well as the Ethereum market.[52]

The Exchange represents that it has the necessary systems capacity to support the new Fidelity Fund options. As discussed above, the Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading Unit options, including Fidelity Fund options.

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 purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as options on the Fidelity Fund will be equally available to all market participants who wish to trade such options and will trade generally in the same manner as other options. The Exchange Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Fidelity Fund options on the Exchange in the same manner as they apply to other options on all other Units that are listed and traded on the Exchange. Also, and as stated above, the Commission has approved the trading of options on other commodity-based Units.[53]

52 See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

53 See Rule 4.3, Interpretation and Policy .06(a)(4).

Further, the Fidelity Fund would need to satisfy the maintenance listing standards set forth in the Exchange Rules in the same manner as any other Unit for the Exchange to continue listing options on them.

The Exchange does not believe that the proposal to list and trade options on the Fidelity Fund will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Fidelity Fund options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on the Fidelity Fund. The Exchange notes that listing and trading Fidelity Fund options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market.

The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition, as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Fidelity Fund options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with Ethereum prices and Ethereum-related products and positions on a listed options exchange.

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

The Exchange 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 Exchange consents, the Commission will:

A. by order approve or disapprove such 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 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 (https://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2024-036 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-CBOE-2024-036. 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 (https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2024-036 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

Sherry R. Haywood,

Assistant Secretary.

[54] 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Additions set forth in the proposed rule text of Amendment No. 1 to SR-CBOE-2024-036 are underlined and deletions set forth in the proposed rule text of original SR-CBOE-2024-036 are bracketed. Additions being made pursuant to Amendment No. 1 to SR-CBOE-2024-036 are double-underlined and deletions being made pursuant to Amendment No. 1 to SR-CBOE-2024-036 are struc.

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Rules of Cboe Exchange, Inc.

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Rule 4.3. Criteria for Underlying Securities

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Interpretations and Policies

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.06

(a) Securities deemed appropriate for options trading include Units that:

(1) – (3) No change.

(4) represent interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Silver Trust, the Aberdeen Standard Physical Gold Trust, the Aberdeen Standard Physical Palladium Trust, the Aberdeen Standard Physical Platinum Trust, the Sprott Physical Gold Trust, the Goldman Sachs Physical Gold ETF, the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, [or] the Bitwise Bitcoin ETF, or the Fidelity Ethereum Fund~~, the 21Shares Ethereum ETF, the Invesco Galaxy Ethereum ETF, the Franklin Ethereum ETF, the VanEck Ethereum ETF, the Grayscale Ethereum Trust, Grayscale Mini Ethereum Trust, the Bitwise Ethereum ETF, and the iShares Ethereum Trust~~; or

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Rule 4.20. FLEX Option Classes

The Exchange may authorize for trading a FLEX Option class on any equity security (except the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, ~~or~~ the Bitwise Bitcoin ETF or the Fidelity Ethereum Fund) or index if it may authorize for trading a non-FLEX Option class on that equity security or index pursuant to Rules 4.3 and 4.10, respectively, even if the Exchange does not list that non-FLEX Option class for trading.

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Rule 8.30. Position Limits

Except with the prior permission of the President or his designee, to be confirmed in writing, no Trading Permit Holder shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange if the Trading Permit Holder has reason to believe that as a result of such transaction the Trading Permit Holder or its customer would, acting alone or in concert with others, directly or indirectly, (a) control an aggregate position in an option contract dealt in on the Exchange in excess of 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option contracts (whether long or short) of the put type and the call type on the same side of the market respecting the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series of options, or (b) exceed the applicable position limit fixed from time to time by another exchange for an option contract not dealt in on the Exchange, when the Trading Permit Holder is not a member of the other exchange on which the transaction was effected. In addition, should a Trading Permit Holder have reason to believe that a position in any account in which it has an interest or for the account of any customer is in excess of the applicable limit, such Trading Permit Holder shall promptly take the action necessary to bring the position into compliance. Reasonable notice shall be given of each new position limit fixed by the Exchange, by publicly posting notice thereof. Limits shall be determined in the manner described in the Interpretations and Policies below.

Interpretations and Policies

.01 – .09 No change.

.10 *Interests in Commodities-Based Trusts.* The position limits under this Rule 8.30 applicable to options on shares or other securities that represent interests in commodities-based trusts that satisfy the criteria set forth in Rule 4.3.06(a)(4) shall be the same as the position limits applicable to equity options under this Rule 8.30 and Interpretations and Policies thereunder, except that the position limits under this Rule 8.30 applicable to option contracts on the securities listed in the below chart are as follows:

Commodities-Based Trust Underlying Option	**Position Limit**
Fidelity Wise Origin Bitcoin Fund	25,000
ARK 21Shares Bitcoin ETF	25,000
iShares Bitcoin Trust	25,000

Grayscale Bitcoin Trust	25,000
Grayscale Bitcoin Mini Trust	25,000
Bitwise Bitcoin ETF	25,000
Fidelity Ethereum Fund	25,000

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EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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Rule 4.3. Criteria for Underlying Securities

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Interpretations and Policies

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.06

(a) Securities deemed appropriate for options trading include Units that:

(1) – (3) No change.

(4) represent interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Silver Trust, the Aberdeen Standard Physical Gold Trust, the Aberdeen Standard Physical Palladium Trust, the Aberdeen Standard Physical Platinum Trust, the Sprott Physical Gold Trust, the Goldman Sachs Physical Gold ETF, the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, [or] the Bitwise Bitcoin ETF, or the Fidelity Ethereum Fund; or

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Rule 4.20. FLEX Option Classes

The Exchange may authorize for trading a FLEX Option class on any equity security (except the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, [or] the Bitwise Bitcoin ETF, or the Fidelity Ethereum Fund) or index if it may authorize for trading a non-FLEX Option class on that equity security or index pursuant to Rules 4.3 and 4.10, respectively, even if the Exchange does not list that non-FLEX Option class for trading.

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Rule 8.30. Position Limits

Except with the prior permission of the President or his designee, to be confirmed in writing, no Trading Permit Holder shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange if the Trading Permit Holder has reason to believe that as a result of such transaction the Trading Permit Holder or its customer would, acting alone or in concert with others, directly or indirectly, (a) control an aggregate position in an option contract dealt in on the Exchange in excess of 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option contracts (whether long or short) of the put type and the call type on the same side of the market respecting the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series of options, or (b) exceed the applicable position limit fixed from time to time by another exchange for an option contract not dealt in on the Exchange, when the Trading Permit Holder is not a member of the other exchange on which the transaction was effected. In addition, should a Trading Permit Holder have reason to believe that a position in any account in which it has an interest or for the account of any customer is in excess of the applicable limit, such Trading Permit Holder shall promptly take the action necessary to bring the position into compliance. Reasonable notice shall be given of each new position limit fixed by the Exchange, by publicly posting notice thereof. Limits shall be determined in the manner described in the Interpretations and Policies below.

Interpretations and Policies

.01 – .09 No change.

.10 *Interests in Commodities-Based Trusts.* The position limits under this Rule 8.30 applicable to options on shares or other securities that represent interests in commodities-based trusts that satisfy the criteria set forth in Rule 4.3.06(a)(4) shall be the same as the position limits applicable to equity options under this Rule 8.30 and Interpretations and Policies thereunder, except that the position limits under this Rule 8.30 applicable to option contracts on the securities listed in the below chart are as follows:

Commodities-Based Trust Underlying Option	**Position Limit**
Fidelity Wise Origin Bitcoin Fund	25,000
ARK 21Shares Bitcoin ETF	25,000
iShares Bitcoin Trust	25,000
Grayscale Bitcoin Trust	25,000
Grayscale Bitcoin Mini Trust	25,000
Bitwise Bitcoin ETF	25,000

Fidelity Ethereum Fund	25,000

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