

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-102485; File No. SR-NYSEARCA-2025-13)

February 25, 2025

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to Amend the Grayscale Ethereum Trust ETF and Grayscale Ethereum Mini Trust ETF to Permit Staking of the Ether Held by the Trusts

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on February 14, 2025, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Grayscale Ethereum Trust ETF (the “Trust”) and Grayscale Ethereum Mini Trust ETF (the “Mini Trust” and, together with the Trust, the “Trusts”), shares of which have been approved by the Commission to list and trade on the Exchange pursuant to Rule 8.201-E (Commodity-Based Trust Shares), to permit staking of the ether held by the Trusts. The proposed rule change is available on the Exchange’s website at <http://www.nyse.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend the Trusts, shares of which have been approved by the Commission to list and trade on the Exchange pursuant to Rule 8.201-E (Commodity-Based Trust Shares), to permit staking of the ether held by each of the Trusts.

Background

The Commission approved the listing and trading of shares of the Trust (the “Trust Shares”) on the Exchange under Rule 8.201-E on May 23, 2024⁴ and the listing and trading of shares of the Mini Trust (the “Mini Trust Shares”) on the Exchange under Rule 8.201-E on July 17, 2024.⁵

Rule 8.201-E governs the listing and trading of Commodity-Based Trust Shares.

Commodity-Based Trust Shares are securities issued by a trust that represents investors’ discrete

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; SR-CboeBZX-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).

⁵ See Securities Exchange Act Release No. 100541 (July 17, 2024), 89 FR 59786 (July 23, 2024) (SR-NYSEARCA-2024-44; SR-NYSEARCA-2024-53) (Order Granting Approval of Proposed Rule Changes To List and Trade Shares of the Grayscale Ethereum Mini Trust and ProShares Ethereum ETF).

identifiable and undivided beneficial ownership interest in the commodities deposited into the trust. The Trust Shares are issued by the Trust, and the Mini Trust Shares are issued by the Mini Trust. Each of the Trusts is a Delaware statutory trust.

Proposed Rule Change

The Exchange proposes to amend Amendment No. 2 to the Trust Shares filing⁶ (the “Trust Shares Filing”) and Amendment No. 3 to the Mini Trust Shares filing⁷ (the “Mini Trust Shares Filing”) as described below to allow the staking of the ether held by each of the Trusts. Specifically, the Exchange proposes to add the following “Staking” section following the “Custody of the Trust’s Ether” section in the Trust Shares Filing and in the Mini Trust Shares Filing:

Staking

The Sponsor may, from time to time, stake a portion of the Trust’s ether on behalf of the Trust through one or more trusted staking providers, which may include the Custodian or an affiliate of the Custodian (“Staking Providers”).

However, the Sponsor will not utilize any Staking Providers that are affiliates of the Sponsor. In consideration for any staking activity in which the Trust may engage, the Trust would receive certain staking rewards of ether tokens, which may be treated as income to the Trust.

The Staking Process

⁶ See Securities Exchange Act Release No. 100217 (May 22, 2024), 89 FR 46441 (May 29, 2024) (SR-NYSEARCA-2023-70) (Notice of Filing of Amendment No. 2 to a Proposed Rule Change To List and Trade Shares of the Grayscale Ethereum Trust).

⁷ See Securities Exchange Act Release No. 100233 (May 28, 2024), 89 FR 47618 (June 3, 2024) (SR-NYSEARCA-2024-44) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 3, To List and Trade Shares of the Grayscale Ethereum Mini Trust).

As described in “Proof-of-Stake Process” above, the Merge amended the Ethereum Network’s consensus mechanism to a process known as proof-of-stake. Proof-of-stake was intended to address the perceived shortcomings of the proof-of-work consensus mechanism in terms of labor intensity and duplicative computational effort expended by validators (known under proof-of-work as “miners”). In a proof-of-work consensus mechanism, miners effectively compete to be the first in time to solve the cryptographic puzzle that would allow them to be the only validator permitted to validate the block and thus be the only ones to receive the resulting block reward. Miners who are not first in time (and thus are not permitted to be validators) will have effectively expended significant labor and computing power for no gain. In a proof-of-stake mechanism, by contrast, a single validator is randomly selected to solve the cryptographic puzzle needed to validate a block, which it proposes to a committee of other validators, who vote for whether to include the block (or not). This proof-of-stake system reduces the computational work performed - and energy expended - to validate each block compared to proof-of-work.

New ether is created as a result of the staking of ether by validators. Validators are required to stake ether in order to be selected to perform validation activities and then once selected, as a reward, they earn newly created ether. Validation activities include verifying transactions, storing data, and adding to the Ethereum blockchain. To operate a node on the Ethereum blockchain, a validator must acquire and lock 32 ether by sending a special transaction to the staking contract. This transaction associates the staked ether with a withdrawal address (to

unlock the ether and receive any staking rewards) and a validator address (to designate the validator node performing transaction verification).

Staking by the Sponsor on Behalf of the Trust

The Sponsor may, from time to time, stake a portion of the Trust's ether on behalf of the Trust through one or more Staking Providers. The Sponsor expects to maintain sufficient liquidity in the Trust to satisfy redemptions. The ether staked by the Sponsor on behalf of the Trust will consist exclusively of ether owned by the Trust. The Sponsor's staking activities on behalf of the Trust will not constitute "delegated staking" and will not form part of a "staking as a service" offering. As further discussed below, the Sponsor believes its activities in relation to staking the ether held by the Trust on behalf of the Trust are materially different from the delegated staking and "staking as a service" activities that the SEC has alleged to involve securities offerings in violation of Section 5 of the Securities Act of 1933.⁸

First, the Sponsor will only stake the ether held by the Trust. The Sponsor will not seek to pool the ether held by the Trust with ether held by other entities (although such pooling may occur at the level of a Staking Provider). Second, the Sponsor will not advertise itself as providing any staking services generally, or promise any specific level of return from staking, or solicit delegated stakes from entities other than the Trust. Third, the Sponsor has stated that it is staking the

⁸ See, e.g., *SEC v. Payward Ventures, Inc. and Payward Trading, Ltd.* (filed February 9, 2023), available at <https://www.sec.gov/files/litigation/complaints/2023/comp-pr2023-25.pdf>; *SEC v. Binance Holdings Limited, et al.* (filed June 5, 2023), available at <https://www.sec.gov/files/litigation/complaints/2023/comp-pr2023-101.pdf>; *SEC v. Coinbase, Inc. and Coinbase Global* (filed June 6, 2023), available at <https://www.sec.gov/files/litigation/complaints/2023/comp-pr2023-102.pdf>.

Trust's ether solely in order to maximize the Trust's revenue generation opportunities, and to generate returns for the Trust's shareholders. Fourth, the Sponsor will not bear or subsidize the risk of slashing on behalf of the Trust. Staking by the Sponsor will not result in the ether held by the Trust moving out of the custody of the Custodian. In order to stake the Trust's ether, Sponsor will use an interface through which an entity can initiate staking by selecting the ether assets to be staked. This process does not involve the staked ether leaving the wallet at which it is held, and accordingly reduces the risk of loss of ether through theft at the node while the asset is staked (although this process will not reduce the risk of loss of the ether through slashing).

Except for the changes described above, all other representations in the Trust Shares Filing and the Mini Trust Shares Filing remain unchanged and will continue to constitute continued listing requirements. In addition, the Trusts will continue to comply with the terms of the Trust Shares Filing and Mini Trust Shares Filing, as applicable, and the requirements in Rule 8.201-E.

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 requirements of Section 6(b)⁹ of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78f(b)(5).

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.

The Exchange believes the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would allow the Trusts to stake ether on behalf of their investors. The Ethereum Network allows for staking of its native asset, ether tokens, and permits validators who successfully stake ether to receive rewards in the form of more ether tokens. The net beneficiaries are not only validators, or those on behalf of whom they stake ether, but also the Ethereum Blockchain itself, which grows and is progressively made more secure through the validation of transactions. Staking permits validators to contribute to the Ethereum Network by staking their tokens to secure the Ethereum Blockchain, facilitating the creation of blocks, and helping process transactions. Validators are compensated for fulfilling this important role through transaction fees and consensus rewards paid by the blockchain itself.

Staking through mechanisms such as “point-and-click” staking would also permit the earning of rewards without certain additional risks to the tokens held by the Trusts’ respective Custodians on behalf of each of the Trusts. Allowing the Trusts to stake their ether would benefit investors by permitting the Trusts to exercise their rights to free additional ether and help the Trusts better track the returns associated with holding ether. Permitting the Trusts to engage in staking would improve the creation and redemption process for both Authorized Participants and the Trusts, increase efficiency, and ultimately benefit the end investors in the Trusts.

As noted above, except for the proposed change to allow the Trusts to engage in staking of ether, all other representations in the Trust Shares Filing and the Mini Trust Shares Filing remain unchanged and will continue to constitute continued listing requirements. In addition, the Trusts will continue to comply with the terms of the Trust Shares Filing and the Mini Trust Shares Filing, as applicable, and the requirements in Rule 8.201-E.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. As discussed above, the proposed change is intended to benefit investors and allow the Trusts to better track the returns associated with holding ether.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the 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-NYSEARCA-2025-13 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-NYSEARCA-2025-13. 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-NYSEARCA-2025-13 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.¹¹

Sherry R. Haywood,

Assistant Secretary.

¹¹ 17 CFR 200.30-3(a)(12).