

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103034; File No. SR-NASDAQ-2025-008]

Self-Regulatory Organizations; Nasdaq Stock Market LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Amend the Rules Governing the Listing and Trading of Shares of the iShares Bitcoin Trust to Permit In-Kind Creations and Redemptions under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

May 13, 2025.

I. Introduction

On January 24, 2025, The Nasdaq Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the rules governing the listing and trading of shares (“Shares”) of the iShares Bitcoin Trust (“Trust”) under Nasdaq Rule 5711(d). The proposed rule change was published for comment in the Federal Register on February 12, 2025.³

On March 11, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 102366 (Feb. 6, 2025), 90 FR 9446 (“Notice”). Comments received on the proposed rule change are available at: <https://www.sec.gov/comments/sr-nasdaq-2025-008/srnasdaq2025008.htm>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 102602, 90 FR 12421 (Mar. 17, 2025). The Commission designated May 13, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

This order institutes proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Summary of the Proposal

As described in more detail in the Notice,⁷ the Exchange proposes to amend the rules governing the listing and trading of the Shares of the Trust under Nasdaq Rule 5711(d).⁸ Specifically, the Exchange proposes to amend certain representations regarding the Trust's creation and redemption process to allow for in-kind transfers of the Trust's bitcoin. According to the Exchange, the proposed in-kind transfer process will be an alternative to the Trust's current cash creation and redemption process. First, the Exchange proposes to amend the section entitled "Custody of the Trust's Bitcoin and Creation and Redemption" to add further detail on how the Trust will handle transfers of bitcoin in connection with the proposed in-kind creation and redemption process. Second, the Exchange proposes to modify the section entitled "Creation and Redemption of Shares" to integrate the proposed in-kind creation and redemption process. According to the Exchange, except for these two proposed amendments, all other representations stated in the Bitcoin ETP Approval will remain unchanged and will continue to constitute continued listing requirements.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Notice, supra note 3.

⁸ Nasdaq Rule 5711(d) governs the listing and trading of Commodity-Based Trust Shares. The Commission approved the Exchange's proposal, as amended, to list and trade the Shares on the Exchange on January 10, 2024. See Securities Exchange Act Release No. 99306 (Jan. 10, 2024), 89 FR 3008 (Jan. 17, 2024) ("Bitcoin ETP Approval").

III. Proceedings to Determine Whether to Approve or Disapprove SR-NASDAQ-2025-008 and Grounds for Disapproval under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,¹⁰ the Commission is providing notice of the grounds for disapproval under consideration. As described above, the Exchange proposes to allow for in-kind creation and redemption of the Trust's bitcoin. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.¹¹

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written

⁹ 15 U.S.C. 78s(b)(2)(B).

¹⁰ Id.

¹¹ 15 U.S.C. 78f(b)(5).

views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹²

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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-NASDAQ-2025-008 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.

¹² Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

All submissions should refer to file number SR-NASDAQ-2025-008. 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-NASDAQ-2025-008 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Rebuttal comments should be submitted by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

¹³ 17 CFR 200.30-3(a)(57).