

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94094; File No. SR-CboeBZX-2022-005)

January 28, 2022

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Goldman Sachs Physical Gold ETF Under BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 25, 2022, Cboe BZX Exchange, Inc. filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially 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 BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission” or the “SEC”) a proposed rule change to list and trade shares of the Goldman Sachs Physical Gold ETF (the “Trust”) under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),³ which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.⁴ The Commission has previously approved and noticed for immediate and effective proposals that are substantively identical to this proposal that permit the listing and trading of the Shares on NYSE Arca, Inc. (“Arca”).⁵ Further, the Shares are currently listed and traded on Arca and as of December 14, 2021 and had net assets of \$414.19 million.

³ The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

⁴ All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

⁵ See Securities Exchange Act No. 82372 (December 21, 2017), 82 FR 61601 (December 28, 2017) (SR-NYSEArca-2017-140) (the “Original Proposal”). See also Securities Exchange Act No. 82593 (January 26, 2018), 83 FR 4718 (February 1, 2018) (SR-NYSEArca-2017-140) (Order Approving the Original Proposal). The order approving the Original Proposal was later amended on November 20, 2020 to reflect (i) a change in the sponsors and the custodian of the Perth Mint Physical Gold ETF, which was renamed as the Goldman Sachs Physical Gold ETF, (ii) the elimination of an investor’s ability to take delivery of Physical Gold, and (iii) in connection with the change of custodian, the removal of the Government Guarantee, and to amend certain other representations in the

Goldman Sachs Asset Management, L.P. is the sponsor of the Trust (the “Sponsor”). The Bank of New York Mellon is the trustee of the Trust (the “Trustee”). JPMorgan Chase Bank, N.A., London branch serves as the custodian of the Trust’s gold bullion (the “Custodian”) and is responsible for the safekeeping of the gold owned by the Trust. The Shares are registered with the Commission by means of the Trust’s registration statement on Form S-3 (the “Registration Statement”).⁶

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,⁷ and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.⁸

Goldman Sachs Physical Gold ETF

The Trust’s primary objective is for the Shares to reflect the performance of the price of gold less the expenses of the Trust’s operations. Although the Shares are not the exact equivalent of an investment in gold, they provide investors with an alternative that allows a level of participation in the gold market through the securities market.

Operation of the Gold Market

Proposal. See Securities Exchange Act No. 90529 (November 30, 2020), 85 FR 78391 (December 4, 2020) (SR-NYSEArca-2020-100) (the “Updated Proposal”).

⁶ On June 11, 2019 the Trust filed with the Commission a registration statement on Form S-1 under the Securities Act of 1933 relating to the Trust (File No. 333- 224389) (“S-1 Registration Statement”). The S-1 Registration Statement was declared effective by the SEC on June 20, 2019. On December 28, 2020, the Trust filed with the Commission the Registration Statement on Form S-3 under the Securities Act of 1933 relating to the Trust (File No. 333-251769). The Registration Statement was declared effective by the SEC on January 8, 2021.

⁷ 15 U.S.C. 80a-1.

⁸ 17 U.S.C. 1.

The global trade in gold consists of over-the-counter (“OTC”) transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options. The OTC market trades on a continuous basis and accounts for most global gold trading. Market makers and participants in the OTC market trade with each other and their clients on a principal-to-principal basis. The main centers of the OTC market are London, New York and Zurich. Most OTC market trades are cleared through London. The London Bullion Market Association (“LBMA”) plays an important role in setting OTC gold trading industry standards.

Futures Exchanges

Although the Trust will not invest in gold futures, information about the gold futures market is relevant as such markets contribute to, and provide evidence of, the liquidity of the overall market for gold. The most significant gold futures exchange in the U.S. is COMEX, operated by Commodities Exchange, Inc., a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (the “CME Group”). Other commodity exchanges include the Tokyo Commodity Exchange (“TOCOM”), the Multi Commodity Exchange Of India (“MCX”), the Shanghai Futures Exchange, ICE Futures US (the “ICE”), and the Dubai Gold & Commodities Exchange.⁹

The London Bullion Market Association

The LBMA is a trade association that, among other duties, maintains and publishes “Good Delivery” lists that establish a set of criteria that a refiner and its gold must satisfy before being accepted for trading. Although the market for Physical Gold¹⁰ is distributed globally, most OTC market trades are cleared through London. The LBMA coordinates the market for gold and

⁹ The CME Group and the ICE are members of the Intermarket Surveillance Group (“ISG”).

¹⁰ “Physical Gold” means gold bullion that meets the London Good Delivery Standards.

acts as the principal point of contact between the market and its regulators. A primary function of the LBMA is its involvement in the promotion of refining standards by maintenance of the “London Good Delivery Lists,” which are the lists of LBMA accredited melters and assayers of gold as well as the specifications to which a bar/ingot must adhere. The LBMA also coordinates market clearing and vaulting, and promotes good trading practices. “Good Delivery” is a list of specifications a bar or ingot must meet to trade on the London gold markets. The standards for gold bars meeting the “London Good Delivery Lists” are published in LBMA’s “The Good Delivery Rules for Gold and Silver Bars”. Gold is usually traded on the London market on a loco London basis. This means the gold is physically held in vaults in London or is transferred into accounts established in London. Payment upon settlement and delivery of a loco London spot trade is usually in US dollars, two business days after the trade date. Delivery of the gold is either by physical delivery or through the LBMA clearing system to an unallocated account.

Creation and Redemption of Shares by Authorized Participants

According to the Registration Statement, authorized participants may purchase (i.e., create) or redeem Shares only in blocks of 25,000 Shares (each such block, a “Creation Unit”) in the Trust. Creation Units are offered to authorized participants at the Trust’s net asset value (“NAV”). The size of a Creation Unit is subject to change. The creation and redemption of Creation Units will only be made in exchange for the delivery to the Trust or the distribution by the Trust of the amount of gold represented by the Creation Units being created or redeemed, the amount of which will be based on the combined Fine Ounces¹¹ represented by the number of

¹¹ “Fine Ounce” means an ounce of 100% pure gold, Fine Ounces being determined, as to Physical Gold, by multiplying the gross weight in ounces by the fineness, expressed as a fraction of the fine metal content in parts per 1000 in accordance with London Good Delivery Standards and, as to gold held on an unallocated basis, by the number of Fine

Shares included in the Creation Units being created or redeemed determined on the day the order to create or redeem Creation Units is properly received.

Orders to create and redeem Creation Units may be placed only by authorized participants. An authorized participant must: (1) be a registered broker-dealer or other securities market participant, such as a bank or other financial institution, which, but for an exclusion from registration, would be required to register as a broker-dealer to engage in securities transactions, (2) be a participant in the Depository Trust Company (“DTC”) and (3) must have an agreement with the Custodian establishing an account or have an existing account meeting the standards described herein.

Gold is delivered to the Trust and distributed by the Trust through credits and debits between authorized participants’ accounts, the trust unallocated metal account and the trust allocated metal account. When the Trustee requests creation of a basket at an authorized participant’s request, the authorized participant will then transfer gold to the trust unallocated metal account. Once that gold is received in the trust unallocated metal account, the Custodian will then allocate the gold to the trust allocated metal account where it will be stored for safekeeping. All gold represented by a credit to any authorized participant’s unallocated account represents a right to receive Fine Ounces of gold. London Bars must further conform to London Good Delivery Standards.

Creation Procedures - Authorized Participants

On any business day, an authorized participant may place an order with the Trustee to create one or more Creation Unit. For purposes of processing both purchase and redemption

Ounces credited to the applicable unallocated account from time to time (such account being denominated in Fine Ounces).

orders, a “business day” means any day other than a day: (1) when the Exchange is closed for regular trading; or (2) if the order or other transaction requires the receipt or delivery, or the confirmation of receipt or delivery, of gold in the United Kingdom, or in some other jurisdiction on a particular day, (A) when banks are authorized to close in the United Kingdom, or in such other jurisdiction or when the London gold market is closed or (B) when banks in the United Kingdom, or in such other jurisdiction are, or the London gold market is, not open for a full business day and the order or other transaction requires the execution or completion of procedures which cannot be executed or completed by the close of the business day. Purchase orders must be placed prior to the Order Cutoff Time¹² on any business day.

Determination of Required Deposits

The Trustee shall determine the Basket Gold Amount¹³ for each business day, and each such determination thereof and the Trustee’s resolution of questions concerning the composition of the Basket Gold Amount shall be final and binding on all persons interested in the Trust. At the creation of the Trust, the initial Basket Gold Amount was 500 Fine Ounces of gold. After the initial deposit of gold into the Trust, the Creation Unit Gold Amount for each business day shall be an amount of gold equal to:

$$\frac{(a) \text{ minus } (b)}{(c) \text{ divided by } (d)}$$

Where:

¹² “Order Cutoff Time” is defined, with respect to any business day, as (i) 3:59:59 p.m. New York City time on such business day or (ii) another time agreed to by the Sponsors and the Trustee as to which the Sponsor has notified registered owners of Shares and all existing authorized participants.

¹³ “Basket Gold Amount” refers to the amount of gold that must be deposited for issuance of one Creation Unit or that is deliverable on surrender of one Creation Unit.

(a) = the total number of Fine Ounces of gold held in the Trust as of the opening of business on such business day.

(b) = the number of Fine Ounces of gold equal in value to the Trust's unpaid expense accrual as of the opening of business on such business day

(c) = the total number of Shares outstanding as of the opening of business on such business day

(d) = 25,000 (or other number of Shares in a Creation Unit for such business day).

Fractions of a Fine Ounce of gold included in the Basket Gold Amount smaller than 0.001 Fine Ounces shall be disregarded. The Sponsor shall publish, or shall designate another person to publish, for each business day, the Basket Gold Amount.

Delivery of Required Deposits

An authorized participant who places a purchase order is responsible for crediting the trust unallocated metal account with the required gold deposit amount by 4:00 PM London time on the second business day following the purchase order date. No Shares will be issued unless and until the Custodian has informed the Trustee that it has credited to the trust allocated metal account at the Custodian the corresponding amount of gold. Upon transfer of the gold deposit amount to the trust allocated metal account, the Trustee will direct DTC to credit the number of Creation Units ordered to the authorized participant's DTC account. The expense and risk of delivery, ownership and safekeeping of gold, until such gold has been received by the Custodian on behalf of the Trust, shall be borne solely by the authorized participant.

Redemption Procedures - Authorized Participants

The procedures by which an authorized participant can redeem one or more Creation Unit will mirror the procedures for the creation of Creation Units. On any business day, an authorized

participant may place an order with the Trustee to redeem one or more Creation Units. Redemption orders must be placed prior to the Order Cutoff Time on each business day the Exchange is open for regular trading (normally 9:30 a.m. Eastern Time). A redemption order so received is effective on the date it is received in satisfactory form by the Trustee. The redemption procedures allow only authorized participants to redeem Creation Units. An investor may not redeem Creation Units other than through an authorized participant. By placing a redemption order, an authorized participant agrees to deliver the Creation Unit to be redeemed through DTC's book-entry system to the Trust no later than the second business day following the effective date of the redemption order. Prior to the delivery of the redemption distribution for a redemption order, the authorized participant must also have wired to the Trustee the non-refundable transaction fee due for the redemption order. The redemption distribution from the Trust consists of a credit to the redeeming authorized participant's account representing the amount of the gold held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order. A redeeming authorized participant is responsible for any applicable tax, fees or other governmental charge that may be due, as well as any charges or fees in connection with the transfer of gold and the issuance and delivery of the Shares, and any expense associated with the delivery of gold other than by credit to an authorized participant's unallocated account with the Custodian or another LBMA-member clearing bank.

Delivery of Redemption Distribution

The redemption distribution due from the Trust is delivered to the authorized participant on the second business day following the redemption order date if, by 9:00 a.m. Eastern time on the second business day following the redemption order date, the Trustee's DTC account has been credited with the Creation Units to be redeemed. The Custodian will arrange for the

redemption amount in gold to be transferred from the trust allocated metal account to the trust unallocated metal account, and thereafter, as necessary, to the redeeming authorized participant's account. With respect to a redemption order provided in the ordinary course, the Custodian shall deliver unallocated gold to the account indicated by the redeeming authorized participant in its redemption order by 4:00 p.m. London Time on the second business day following the order date.

Valuation of Gold and Computation of NAV

On each business day that the Exchange is open for regular trading, as promptly as practicable after 4:00 PM, Eastern time, the Trustee will value the gold held by the Trust and will determine the NAV of the Trust, as described below. The NAV of the Trust is the aggregate value of gold and other assets, if any, of the Trust (other than any amounts credited to the Trust's reserve account, if any) including cash, if any, less liabilities of the Trust, which include estimated accrued but unpaid fees, expenses and other liabilities. All gold is valued based on its Fine Ounce content, calculated by multiplying the weight of gold by its purity; the same methodology is applied independent of the type of gold held by the Trust. The Trustee values the gold held by the Trust based on the afternoon LBMA Gold Price, or the morning LBMA Gold Price, if such day's afternoon LBMA Gold Price is not available. If no LBMA Gold Price is available for the day, the Trustee will value the Trust's gold based on the most recently announced afternoon LBMA Gold Price or morning LBMA Gold Price. If the Sponsor determines that such price is inappropriate to use, it shall identify an alternate basis for evaluation to be employed by the Trustee. The Sponsor may instruct the Trustee to use a different price which is reasonably available to the Trustee at no cost to the Trustee that the Sponsor determines to fairly represent the commercial value of the Trust's gold. Once the value

of gold has been determined, the Trustee will subtract all estimated accrued but unpaid fees, expenses and other liabilities of the Trust from the total value of gold and any other assets of the Trust (other than any amounts credited to the Trust's reserve account), including cash, if any. The resulting figure is the NAV of the Trust. The Trustee will also determine the NAV per share by dividing the NAV of the Trust by the number of the Shares outstanding as of the close of trading on the Exchange (which includes the net number of any Shares deemed created or redeemed on such evaluation day).¹⁴

Secondary Market Trading

The Shares may trade in the secondary market on the Exchange at prices that are lower or higher relative to their NAV per share. The amount of the discount or premium in the trading price relative to the NAV per share may be influenced by non-concurrent trading hours between the Exchange and the COMEX, London and Zurich. While the Shares will trade on the Exchange during all trading sessions, liquidity in the global gold market may be reduced after the close of the major world gold markets, including London, Zurich and COMEX, usually at 1:30 PM Eastern Time. As a result, during this time, trading spreads and the resulting premium or discount on the Shares may widen.

Availability of Information Regarding Gold

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is

¹⁴ The exchange of Shares to facilitate the delivery of Physical Gold is subject to applicable product premiums and the delivery fees associated with the transport of Physical Gold to delivery applicants.

a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services. Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of Gold and last sale prices of Gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Gold prices directly from market participants.

Complete real-time data for Gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk.

Investors may obtain gold pricing information based on the spot price for a Fine Ounce from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published by the Sponsor on each day that the Exchange is open for regular trading and will be posted on the Trust's website.

Intraday Indicative Value ("IIV")

The IIV is an indicator of the value of the Trust's net assets at the time the IIV is disseminated. The IIV is calculated and disseminated every 15 seconds during Regular Trading

Hours.¹⁵ The IIV is generally calculated using the prior day's closing net assets of the Trust as a base and updating throughout the trading day changes in the value of the gold and cash held by the Trust.

The IIV will be disseminated by the Exchange or a major market data vendor. In addition, the IIV is available through on-line information services such as Bloomberg Finance L.P. and Reuters.

Availability of Information

The Trust's website, Goldman Sachs Physical Gold ETF (www.gsam.com), which is publicly accessible at no charge, contains the following information: (a) the prior business day's NAV per Share, the reported daily closing price and the reported daily trading volume; (b) the Basket Gold Amount; (c) the midpoint of the bid-ask price as of the time the NAV per Share is calculated (the "Bid-Ask Price"); (d) the calculation of the premium or discount of such price against such NAV per Share; (e) data in chart form displaying the frequency distribution of discounts or premiums of the bid-ask price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; and (f) the current prospectus of the Trust.¹⁶ Finally, the Trust's website will provide the last sale price of the Shares as traded in the U.S. market. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Criteria for Initial and Continued Listing

¹⁵ Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

¹⁶ See <https://www.gsam.com/content/gsam/us/en/individual/products/etf-fund-finder/goldman-sachs-physical-gold-etf.html#activeTab=performance>.

The Trust will be subject to the criteria in Rule 14.11(e)(4) for initial and continued listing of the Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) issued by a trust that holds a specified commodity¹⁷ deposited with the trust; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity. Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Bank of New York Mellon, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in underlying gold market; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to

¹⁷ For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act.

Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is \$0.01 where the price is greater than \$1.00 per share or \$0.0001 where the price is less than \$1.00 per share.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and Gold futures via ISG, from other exchanges who

are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.¹⁸

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) the procedures for the creation and redemption of Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information. In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

¹⁸ For a list of the current members and affiliate members of ISG, see www.isgportal.com.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act¹⁹ in general and Section 6(b)(5) of the Act²⁰ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts, including Commodity-Based Trust Shares, to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are

¹⁹ 15 U.S.C. 78f.

²⁰ 15 U.S.C. 78f(b)(5).

members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

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

As noted above, the Commission has previously approved the Original Proposal, which considered together with the Updated Proposal is substantively identical to this proposal which permits the listing and trading of the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes that the proposed amendment will facilitate the listing of an additional exchange-traded product on the Exchange, which will enhance competition among listing venues, to the benefit of issuers, investors, and the marketplace more broadly.

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

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

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²¹ and Rule 19b-4(f)(6)²² thereunder.²³

A proposed rule change filed under Rule 19b-4(f)(6)²⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may take effect upon filing and BZX may list the Shares as soon as practicable. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. Accordingly, the

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6).

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

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

Commission waives the 30-day operative delay and designates the proposal operative upon filing.²⁶

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2022-005 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2022-005. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

²⁶ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2022-005 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier
Assistant Secretary

²⁷ 17 CFR 200.30-3(a)(12).