

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-87503; File No. SR-NYSEArca-2019-01)

November 12, 2019

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Scheduling Filing of Statements on Review for an Order of Disapproval of Proposed Rule Change to List and Trade the Shares of Bitwise Bitcoin ETF Trust

On January 28, 2019, NYSE Arca, Inc. (“NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares of the Bitwise Bitcoin ETF Trust under NYSE Arca Rule 8.201-E. The proposed rule change was published for comment in the Federal Register on February 15, 2019.<sup>3</sup>

On March 29, 2019, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.<sup>5</sup> On May 7, 2019, NYSE Arca filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed, and on May 14, 2019, the Commission published the proposed rule change, as modified by Amendment No. 1, for notice and comment and instituted proceedings under Section 19(b)(2)(B) of the Exchange Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.<sup>7</sup> On August 12, 2019, the Commission extended the period for consideration of the proposed rule change, as modified by Amendment No. 1, to October 13, 2019.<sup>8</sup>

On October 9, 2019, the Division of Trading and Markets, pursuant to delegated authority,<sup>9</sup> issued an order disapproving the proposed rule change, as modified by Amendment No. 1.<sup>10</sup> On October 15, 2019, the Secretary of the Commission notified NYSE Arca that, pursuant to Commission Rule of Practice 431,<sup>11</sup> the Commission would review the Division’s

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

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

<sup>3</sup> See Securities Exchange Act Release No. 85093 (Feb. 11, 2019), 84 FR 4589 (Feb. 15, 2019).

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

<sup>5</sup> See Securities Exchange Act Release No. 85461 (Mar. 29, 2019), 84 FR 13339 (Apr. 4, 2019).

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See Securities Exchange Act Release No. 85854 (May 14, 2019), 84 FR 23125 (May 21, 2019).

<sup>8</sup> See Securities Exchange Act Release No. 86629 (Aug. 12, 2019), 84 FR 42036 (Aug. 16, 2019).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>10</sup> See Securities Exchange Act Release No. 87267 (Oct. 9, 2019), 84 FR 55382 (Oct. 16, 2019).

<sup>11</sup> See 17 CFR 201.431.

action pursuant to delegated authority and that the Division's action pursuant to delegated authority had been automatically stayed.<sup>12</sup>

Accordingly, IT IS ORDERED, pursuant to Commission Rule of Practice 431, that by [insert date 30 days from date of publication in the Federal Register], 2019, any party or other person may file a statement in support of, or in opposition to, the action made pursuant to delegated authority.

It is further ORDERED that the order disapproving proposed rule change SR-NYSEArca-2019-01 shall remain in effect pending the Commission's review.

By the Commission.

Jill M. Peterson  
Assistant Secretary

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<sup>12</sup> See Letter from Secretary of the Commission to Michael Cavalier, Counsel, and David De Gregorio Senior Counsel, Intercontinental Exchange/NYSE (Oct. 15, 2019), available at <https://www.sec.gov/rules/sro/nysearca/2019/34-87267-letter.pdf>.