

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-98530; File No. SR-CboeBZX-2023-028)

September 26, 2023

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

On April 25, 2023, Cboe BZX Exchange, Inc. (“BZX” or “Exchange”) 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 list and trade shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the Federal Register on May 15, 2023.³

On June 15, 2023, 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

On June 28, 2023, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. On June 30, 2023, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change, as modified by Amendment No. 1, in its entirety. On July 11, 2023, the Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 97461 (May 9, 2023), 88 FR 31045. Comments received on the proposed rule change can be found at: <https://www.sec.gov/comments/sr-cboebzx-2023-028/srcboebzx2023028.htm>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 97732, 88 FR 40877 (June 22, 2023). The Commission designated August 13, 2023, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

filed Amendment No. 3 to the proposed rule change, which amended and replaced the proposed rule change, as modified by Amendment No. 2, in its entirety. On August 11, 2023, the Commission published notice of Amendment No. 3 to the proposed rule change and instituted proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 3.⁷

Section 19(b)(2) of the Act⁸ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the Federal Register on May 15, 2023.⁹ The 180th day after publication of the proposed rule change is November 11, 2023. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 3, and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 98112, 88 FR 55743 (Aug. 16, 2023).

⁸ 15 U.S.C. 78s(b)(2).

⁹ See supra note 3.

¹⁰ 15 U.S.C. 78s(b)(2).

January 10, 2024, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment No. 3 (File No. SR- CboeBZX-2023-028).

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)(57).