

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103571; File Nos. SR-NASDAQ-2025-008; SR-NASDAQ-2025-038; SR-CboeBZX-2025-010; SR-CboeBZX-2025-023; SR-CboeBZX-2025-031; SR-CboeBZX-2025-033; SR-CboeBZX-2025-035; SR-CboeBZX-2025-050; SR-NYSEARCA-2025-38]  
Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; NYSE Arca, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Amend Certain Bitcoin and Ether-Based Commodity-Based Trust Shares to Permit In-Kind Creations and Redemptions

July 29, 2025.

### I. INTRODUCTION

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder (“Rule 19b-4”),<sup>2</sup> The Nasdaq Stock Market LLC (“Nasdaq”), Cboe BZX Exchange, Inc. (“BZX”), and NYSE Arca, Inc. (“NYSE Arca,” and together with Nasdaq and BZX, the “Exchanges”), each of which lists and trades bitcoin- and ether-based Commodity Based Trust Shares,<sup>3</sup> filed with the Securities and Exchange Commission (“Commission”) the

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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> Commodity-Based Trust Shares are securities that are issued by a trust that holds a specified commodity deposited with the trust, or a specified commodity and, in addition to such specified commodity, cash; that are issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and that, 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 and/or cash. See Nasdaq Rule 5711(d)(iv)(a), BZX Rule 14.11(e)(4)(C)(i), and NYSE Arca Rule 8.201-E(c)(1). The Commission previously approved the listing and trading of Commodity-Based Trust Shares issued by the Trusts. See Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units, Securities Exchange Act Release No. 99306 (Jan. 10, 2024), 89 FR 3008 (Jan. 17, 2024) (SR-NYSEARCA-2021-90; SR-NYSEARCA-2023-44; SR-NYSEARCA-2023-58; SR-NASDAQ-2023-016; SR-NASDAQ-2023-019; SR-CboeBZX-2023-028; SR-CboeBZX-2023-038; SR-CboeBZX-2023-040; SR-CboeBZX-2023-042; SR-CboeBZX-2023-044; SR-CboeBZX-2023-072); Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products, Securities

respective proposed rule changes to permit the following trusts (each a “Trust,” and collectively, “Trusts”) to engage in creations and redemptions of their shares with authorized participants on an in-kind basis: (i) iShares Bitcoin Trust<sup>4</sup> and iShares Ethereum Trust,<sup>5</sup> listed under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares); (ii) ARK 21Shares Bitcoin ETF and 21Shares Core Ethereum ETF,<sup>6</sup> Fidelity Wise Origin Bitcoin Fund and Fidelity Ethereum Fund,<sup>7</sup> VanEck Bitcoin ETF and VanEck Ethereum ETF,<sup>8</sup> WisdomTree Bitcoin Fund,<sup>9</sup> Invesco Galaxy Bitcoin

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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 Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of the Hashdex Nasdaq Crypto Index US ETF and Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of the Franklin Crypto Index ETF, a Series of the Franklin Crypto Trust, Securities Exchange Act Release No. 101998 (Dec. 19, 2024), 89 FR 106707 (Dec. 30, 2024) (SR-NASDAQ-2024-028; SR-CboeBZX-2024-091).

<sup>4</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 2, to Amend the Rules Governing the Listing and Trading of the Shares of the iShares Bitcoin Trust to Permit In-Kind Creations and Redemptions (SR-NASDAQ-2025-008), Securities Exchange Act Release No. 103406 (July 9, 2025), 90 FR 31386 (July 14, 2025) (“iShares BTC Amendment”).

<sup>5</sup> See Notice of Filing of Amendment No. 1 and Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rules Governing the Listing and Trading of Shares of the iShares Ethereum Trust to Permit In-Kind Creations and Redemptions (SR-NASDAQ-2025-038), Securities Exchange Act Release No. 103416 (July 9, 2025), 90 FR 31507 (July 14, 2025) (“iShares ETH Amendment”).

<sup>6</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 3, to Amend the Rule Governing the Listing and Trading of the ARK 21Shares Bitcoin ETF and the 21Shares Core Ethereum ETF to Permit In-Kind Creations and Redemptions (SR-CboeBZX-2025-010), Securities Exchange Act Release No. 103524 (July 22, 2025), 90 FR 35331 (July 25, 2025) (“21Shares Amendment”).

<sup>7</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rule Governing the Listing and Trading of the Fidelity Wise Origin Bitcoin Fund and the Fidelity Ethereum Fund to Permit In-Kind Creations and Redemptions (SR-CboeBZX-2025-023), Securities Exchange Act Release No. 103525 (July 22, 2025), 90 FR 35355 (July 25, 2025) (“Fidelity Amendment”).

<sup>8</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rule Governing the Listing and Trading of the VanEck Bitcoin ETF and the VanEck Ethereum ETF to Permit In-Kind Creations and Redemptions (SR-CboeBZX-2025-031), Securities Exchange Act Release No. 103526 (July 22, 2025), 90 FR 35348 (July 25, 2025) (“VanEck Amendment”).

<sup>9</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rule Governing the Listing and Trading of the WisdomTree Bitcoin Fund to Permit In-Kind Creations and Redemptions (SR-CboeBZX-2025-033), Securities Exchange Act Release No. 103527 (July 22, 2025), 90 FR 35351 (July 25, 2025) (“WisdomTree Amendment”).

ETF and Invesco Galaxy Ethereum ETF,<sup>10</sup> and Franklin Bitcoin ETF, Franklin Ethereum ETF, and Franklin Crypto Index ETF,<sup>11</sup> each listed under BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares); and (iii) Bitwise Bitcoin ETF Trust and Bitwise Ethereum ETF,<sup>12</sup> listed under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares). Each of the foregoing proposed rule changes, as modified by their respective amendments, is referred to herein as a “Proposal” and collectively as the “Proposals.”<sup>13</sup> The Proposals were published for comment in the Federal Register.<sup>14</sup> This order approves the Proposals on an accelerated basis.<sup>15</sup>

## II. DISCUSSION AND COMMISSION FINDINGS

After careful review, the Commission finds that the Proposals are consistent with the Exchange Act and rules and regulations thereunder applicable to a national securities exchange.<sup>16</sup> In particular, the Commission finds that the Proposals are consistent with Section 6(b)(5) of the Exchange Act,<sup>17</sup> which requires, among other things, that the Exchanges’ rules be designed to

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<sup>10</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rule Governing the Listing and Trading of the Invesco Galaxy Bitcoin ETF and the Invesco Galaxy Ethereum ETF to Permit In-Kind Creations and Redemptions (SR-CboeBZX-2025-035), Securities Exchange Act Release No. 103529 (July 22, 2025), 90 FR 35335 (July 25, 2025) (“Invesco Amendment”).

<sup>11</sup> See Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rule Governing the Listing and Trading of the Franklin Bitcoin ETF, the Franklin Ethereum ETF, and the Franklin Crypto Index ETF, to Permit In-Kind Creations and Redemptions (SR-CboeBZX-2025-050), Securities Exchange Act Release No. 103530 (July 22, 2025), 90 FR 35343 (July 25, 2025) (“Franklin Amendment”).

<sup>12</sup> See Notice of Filing of Amendment No. 2 to Proposed Rule Change to Amend the Bitwise Bitcoin ETF Trust and the Bitwise Ethereum ETF in Order to Permit In-Kind Creations and Redemptions (SR-NYSEARCA-2025-38), Securities Exchange Act Release No. 103407 (July 9, 2025), 90 FR 31390 (July 14, 2025) (“Bitwise Amendment”).

<sup>13</sup> For the complete procedural history of each Proposal, see each respective Amendment, supra notes 4-12.

<sup>14</sup> The Commission received comments on the iShares BTC Amendment, available at: <https://www.sec.gov/comments/sr-nasdaq-2025-008/srnasdaq2025008.htm> and the Fidelity Amendment available at: <https://www.sec.gov/comments/sr-cboebzx-2025-023/srcboebzx2025023.htm>.

<sup>15</sup> See infra Section III.

<sup>16</sup> In approving the Proposals, the Commission has considered the Proposals’ impacts on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles 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.

Currently, the Trusts only create or redeem their shares with authorized participants in cash.<sup>18</sup> The Proposals would allow the Trusts, in addition to their ability to transact with authorized participants in cash, to engage in creations or redemptions of their shares in an in-kind transaction of spot bitcoin or spot ether, as applicable.<sup>19</sup> All Commodity-Based Trust Shares approved by the Commission before the approval of bitcoin and ether exchange-traded products could create and redeem shares on an in-kind basis.<sup>20</sup> Permitting in-kind creations and redemptions offer the Trusts an additional method of transacting with authorized participants and may enhance tax efficiencies and minimize transaction costs. Providing market participants with

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<sup>18</sup> See supra note 3.

<sup>19</sup> See supra notes 4-12. Generally, in an in-kind creation, an authorized participant will deliver spot bitcoin or spot ether, as applicable, to the trust in exchange for trust shares. And in an in-kind redemption, an authorized participant will deliver trust shares to the trust in exchange for spot bitcoin or spot ether, as applicable.

<sup>20</sup> See, e.g., streetTRACKS Gold Shares, Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614 (Nov. 5, 2004) (SR-NYSE-2004-22); iShares COMEX Gold Trust, Securities Exchange Act Release No. 51058 (Jan. 19, 2005), 70 FR 3749 (Jan. 26, 2005) (SR-Amex-2004-38); iShares Silver Trust, Securities Exchange Act Release No. 53521 (Mar. 20, 2006), 71 FR 14967 (Mar. 24, 2006) (SR-Amex-2005-072); ETFS Gold Trust, Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR-NYSEArca-2009-40); ETFS Palladium Trust, Securities Exchange Act Release No. 61220 (Dec. 22, 2009), 74 FR 68895 (Dec. 29, 2009) (SR-NYSEArca-2009-94); ETFS Platinum Trust, Securities Exchange Act Release No. 61219 (Dec. 22, 2009), 74 FR 68886 (Dec. 29, 2009) (SR-NYSEArca-2009-95); ETFS Precious Metals Basket Trust, Securities Exchange Act Release No. 62692 (Aug. 11, 2010), 75 FR 50789 (Aug. 17, 2010) (SR-NYSEArca-2010-56); ETFS White Metals Basket Trust, Securities Exchange Act Release No. 62875 (Sept. 9, 2010), 75 FR 56156 (Sept. 15, 2010) (SR-NYSEArca-2010-71). In addition, creations and redemptions of exchange-traded funds (“ETFs”) that are structured as an open-end management investment company or as a unit investment trust under the Investment Company Act of 1940 (“Investment Company Act”) are typically effected in kind. See Investment Company Act Release No. 33646 (Sept. 9, 2019), 84 FR 57162 (October 24, 2019) (adopting Rule 6c-11 under Investment Company Act).

flexibility and creating potential efficiencies in the market is consistent with the requirements of Section 6(b)(5) of the Exchange Act<sup>21</sup> and, in particular, the requirement that the Exchanges' rules be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. Moreover, the Exchanges represent that all other representations relating to the Trusts will remain unchanged and continue to constitute continuing listing standards<sup>22</sup> and that the Trusts will continue to comply with all other provisions of the applicable Exchange listing standards relating to Commodity-Based Trust Shares.<sup>23</sup> As such, based on the record before the Commission,<sup>24</sup> the Commission finds that the Proposals are consistent with Section 6(b)(5) of the Exchange Act.<sup>25</sup>

### **III. ACCELERATED APPROVAL OF THE PROPOSALS**

The Commission finds good cause to approve the Proposals prior to the 30th day after the date of publication of notice of the Exchanges' amended filings<sup>26</sup> in the Federal Register. The amended filings make technical clarifications of the proposed in-kind creation and redemption process and conform various representations in the amended filings to the applicable Exchange's listing standards and to representations that the Exchanges have made for other Commodity-

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<sup>21</sup> See supra note 17 and accompanying text.

<sup>22</sup> See iShares BTC Amendment at 31387; iShares ETH Amendment at 31508; 21Shares Amendment at 35334; Fidelity Amendment at 35357; VanEck Amendment at 35350; WisdomTree Amendment at 35352-3; Invesco Amendment at 35338; Franklin Amendment at 35347; and Bitwise Amendment at 31392.

<sup>23</sup> See NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares); Nasdaq Rule 5711(d) (Commodity-Based Trust Shares); and BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares).

<sup>24</sup> The Commission received one comment letter supporting SR-NASDAQ-2025-008 and stating that approving that proposal would provide significant benefits to investors, including increased tax efficiency, simplified reporting, enhanced asset security, and improved market integrity and efficiency. See Letter from Jeff Kleban, dated May 14, 2025. The Commission also received one comment letter generally supporting SR-CboeBZX-2025-023. See Letter from Sammy Aigo, dated Feb. 19, 2025.

<sup>25</sup> See supra note 17.

<sup>26</sup> See supra notes 4-12.

Based Trust Shares that the Commission has approved.<sup>27</sup> These changes do not raise any novel regulatory issues. Further, the changes assist the Commission in evaluating the Proposals and in determining that they are consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, as discussed above. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,<sup>28</sup> to approve the Proposals on an accelerated basis.

#### IV. CONCLUSION

This approval order is based on all of the Exchanges' representations and descriptions in their respective amended filings, which the Commission has evaluated as discussed above.<sup>29</sup> For the reasons set forth above, the Commission finds, pursuant to Section 19(b)(2) of the Exchange Act,<sup>30</sup> that the Proposals are consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Exchange Act.<sup>31</sup>

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<sup>27</sup> See supra note 20.

<sup>28</sup> 15 U.S.C. 78s(b)(2).

<sup>29</sup> In addition, the shares of the Trusts in SR-NASDAQ-2025-008 and SR-NASDAQ-2025-038 must continue to comply with the requirements of Nasdaq Rule 5711(d) (Commodity-Based Trust Shares) to be listed and traded on Nasdaq on a continuing basis; the shares of the Trusts in SR-CboeBZX-2025-010, SR-CboeBZX-2025-023, SR-CboeBZX-2025-031, SR-CboeBZX-2025-033, SR-CboeBZX-2025-035, and SR-CboeBZX-2025-050 must continue to comply with the requirements of BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares) to be listed and traded on BZX on a continuing basis; and shares of the Trusts in SR-NYSEARCA-2025-38 must continue to comply with the requirements of NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares) to be listed and traded on NYSE Arca on a continuing basis.

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Exchange Act,<sup>32</sup> that the Proposals (SR-NASDAQ-2025-008; SR-NASDAQ-2025-038; SR-CboeBZX-2025-010; SR-CboeBZX-2025-023; SR-CboeBZX-2025-031; SR-CboeBZX-2025-033; SR-CboeBZX-2025-035; SR-CboeBZX-2025-050; SR-NYSEARCA-2025-38) be, and hereby are, approved on an accelerated basis.

By the Commission.

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>32</sup> 15 U.S.C. 78s(b)(2).