

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104148; File No. SR-NASDAQ-2025-085]

### **Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to List and Trade Shares of iShares Bitcoin Premium Income ETF under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)**

September 30, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 30, 2025, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been 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**

The Exchange proposes to list and trade shares of iShares<sup>®</sup> Bitcoin Premium Income ETF (the “Trust”) under Nasdaq Rule 5711(d) (“Commodity-Based Trust Shares”). The shares of the Trust are referred to herein as the “Shares.”

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

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

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

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

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 Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.<sup>3</sup> iShares® Delaware Trust Sponsor LLC, a Delaware limited liability company and an indirect subsidiary of BlackRock, Inc. (“BlackRock”), is the sponsor of the Trust (the “Sponsor”). The Trust will be an actively-managed exchange-traded product (“ETP”), that intends to be treated as a publicly-traded partnership for U.S. federal income tax purposes and is registered under the Securities Act of 1933, as amended (the “1933 Act”). Rule 5711(d)(iii)(A)(2) currently requires Commodity-Based Trust Shares to be designed to reflect the performance of one or more reference assets or an index of reference assets, less expenses, and other liabilities. In other words, the Generic Listing Standards require Commodity-Based Trust Shares to be passively managed. For the securities options holdings of Commodity-Based Trust Shares, the Generic Listing Standards require that such options be listed and traded on an ISG market. The Exchange submits this

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<sup>3</sup> The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR-NASDAQ-2012-013). The Commission subsequently approved amendments to Rule 5711(d) to adopt generic listing standards for Commodity-Based Trust Shares. See Securities Exchange Act Release No. 103995 (September 17, 2025), 90 FR 45414 (September 22, 2025) (SR-NASDAQ-2025-056; SR-CboeBZX-2025-104; SR-NYSEARCA-2025-54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) (“Generic Listing Standards”).

proposal because the Trust will be actively managed and may hold over-the-counter (“OTC”) securities options that are not listed and traded on an ISG market; however, it will meet all of the other requirements under the Generic Listing Standards. Any statements or representations included in this proposal regarding: (a) the description of the trust holdings or reference assets; (b) limitations on the trust holdings or reference assets; (c) dissemination and availability of the trust holdings, reference assets or intraday indicative value; or (d) the applicability of Exchange listing rules specified in this proposal shall constitute continued listing standards for the Shares listed on the Exchange. The Shares will be registered with the SEC by means of the Trust’s forthcoming registration statement on Form S-1 (the “Registration Statement”).<sup>4</sup>

#### Overview of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust. The Trust will operate pursuant to a trust agreement (the “Trust Agreement”) between the Sponsor, a third party as the trustee of the Trust (the “Trustee”), and Wilmington Trust, National Association, as Delaware trustee (the “Delaware Trustee”). The Trust issues Shares representing fractional undivided beneficial interests in its net assets. The assets of the Trust consist primarily of bitcoin held by a custodian on behalf of the Trust, as well as shares of iShares Bitcoin Trust ETF (“IBIT”), cash, and the premiums associated with written options on IBIT or indices tracking spot bitcoin ETPs (“options”, collectively with IBIT, the “Securities”). In the event IBIT listed options are exercised early, the Trust will deliver IBIT shares out to the options clearer. In the event the Trust is holding OTC options or options on indices that track spot bitcoin ETPs, such options will be cash-settled. A third party (the “Bitcoin Custodian”) is the custodian for the Trust’s bitcoin holdings, and maintains a custody account for the Trust (“Custody Account”); a third

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<sup>4</sup> The Shares will not trade on the Exchange until such time that the Registration Statement is effective.

party (the “Prime Execution Agent”), is the prime broker for the Trust and maintains a bitcoin trading account for the Trust (“Bitcoin Trading Account”); and a third party is the custodian for the Trust’s Securities holdings (the “Securities Custodian”) and its cash holdings (the “Cash Custodian” and together with the Securities Custodian and Bitcoin Custodian, the “Custodians”). The Trust is not an investment company registered under the Investment Company Act of 1940, as amended (the “1940 Act”) and, in accordance therewith, will not own or acquire Securities in excess of 40% of the value of the Trust’s total assets (excluding Government Securities (as defined in the 1940 Act) and cash items) on an unconsolidated basis.

### Investment Objective

The investment objective of the Trust is to reflect generally the performance of the price of bitcoin while providing income by writing (selling) call options primarily on IBIT or indices that track spot bitcoin ETPs. The Trust seeks to reflect such performance before payment of the Trust’s expenses and liabilities.

### Actively-Managed Strategies

Actively-managed exchange-traded funds (“ETFs”) have become a significant and growing segment of the U.S. and global ETF markets. For example, in 2024, around 49% of all ETFs launched globally were active, and in the U.S., active ETF launches outnumbered index launches by nearly 4:1.<sup>5</sup> Active ETFs in the U.S. represent the vast majority of total ETF launches in 2025,<sup>6</sup> with over a third of U.S. ETF inflows coming from active strategies over the

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<sup>5</sup> See “Decoding active ETFs,” BlackRock, available at <https://www.ishares.com/us/literature/whitepaper/decoding-active-etfs.pdf>.

<sup>6</sup> See “How active ETFs are unlocking innovation and opportunity for investors,” BlackRock, available at <https://www.ishares.com/us/insights/active-etf-investors> (“Active ETFs accounted for 88% of all U.S.-listed ETF launches through June 2025, and 51% of global ETF launches.”); see also “Monthly Active ETF Monitor (August 31, 2025),” J.P.Morgan, available at <https://am.jpmorgan.com/content/dam/jpm-am-aem/americas/us/en/insights/etf-insights/monthly-active-etf.pdf> (“60 active ETFs were launched in August. Active ETFs represent 85% of total ETF launches in 2025.”).

past two years.<sup>7</sup> The Exchange believes that these figures demonstrate substantial market demand in actively-managed strategies, and that this proposal would benefit investors by providing a transparent, regulated investment vehicle as an alternative to less regulated avenues that investors could use to obtain bitcoin exposure.

### Background on Trust Holdings

The Trust will invest primarily in spot bitcoin and IBIT, will hold cash, and will write options on IBIT or indices tracking spot bitcoin ETPs. The Trust's IBIT and cash holdings would be used to settle written options positions if those are exercised. The options may consist of (i) U.S. exchange-listed options, which may include listed index options, ("listed options"), (ii) flexible exchange options, which may include flexible exchange index options, ("FLEX options"), or (iii) OTC options, which are a type of customized derivative not listed on public exchanges, ("OTC options"). Bitcoin, IBIT, listed options, and FLEX options meet the eligibility criteria for Commodity-Based Trust Shares set forth in Rule 5711(d)(iv)(A) (Bitcoin) and (B) (IBIT, listed options, and FLEX options). While OTC options are not listed and traded on an ISG market, the Trust may include these holdings to better meet its investment objective.

### *Bitcoin (BTC)*

Bitcoin is a digital asset that is created and transmitted through the operations of the peer-to-peer Bitcoin network, a decentralized network of computers that operates on cryptographic protocols (the "Bitcoin network"). No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by its user base.

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<sup>7</sup> See "Decoding active ETFs," BlackRock, available at <https://www.ishares.com/us/literature/whitepaper/decoding-active-etfs.pdf> ("31% of net asset inflows come from actively managed strategies," sourcing BlackRock Global Business Intelligence data through June 2024); see also "Monthly Active ETF Monitor (August 31, 2025)," J.P.Morgan, available at <https://am.jpmorgan.com/content/dam/jpm-am-aem/americas/us/en/insights/etf-insights/monthly-active-etf.pdf> ("Over 37% of ETF flows in 2025 have gone into active strategies").

The Bitcoin network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as the Bitcoin blockchain (the “Bitcoin blockchain”). Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on bitcoin platforms that enable trading in bitcoin or in individual end-user-to-end-user transactions under a barter system.

The Bitcoin network is commonly understood to be decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of bitcoin. Rather, bitcoin is created and allocated by the Bitcoin network protocol through a “mining” process. The value of bitcoin is determined by the supply of and demand for bitcoin-on-bitcoin platforms or in private end-user-to-end-user transactions.

New bitcoins are created and rewarded to the miners of a block in the Bitcoin blockchain for verifying transactions. The Bitcoin blockchain is a shared database that includes all blocks that have been solved by miners and it is updated to include new blocks as they are solved. Each bitcoin transaction is broadcast to the Bitcoin network and, when included in a block, recorded in the Bitcoin blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Bitcoin blockchain represents a complete, transparent, and unbroken history of all transactions of the Bitcoin network.

Under the source code that governs the Bitcoin network, the supply of new bitcoin is mathematically controlled so that the number of bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Bitcoin blockchain, approximately every 4 years. This deliberately controlled rate of bitcoin creation means that the number of bitcoin in existence

will increase at a controlled rate until the number of bitcoin in existence reaches the pre-determined 21 million bitcoin. However, the 21 million supply cap could be changed in a hard fork. A hard fork could change the source code to the Bitcoin network, including the 21 million bitcoin supply cap.

Bitcoin's role as the dominant digital asset has positioned it as a key component of institutional portfolios and investment products. Its market dynamics are influenced by macroeconomic trends, adoption rates, and its regulatory environment, making it a focal point for the broader crypto industry. With a decentralized governance model and a community-driven upgrade process, bitcoin continues to evolve while adhering to its core principles of decentralization and security.

#### *Other Investments*

As noted above, the Trust will also invest in Securities. The Commission approved the listing and trading of IBIT on January 10, 2024<sup>8</sup> and IBIT listed options on September 20, 2024.<sup>9</sup> In addition to IBIT listed options, the Commission has approved listed options on other spot bitcoin ETPs and listed options on indices designed to track the performance of a basket of spot bitcoin ETPs listed on U.S. exchanges.<sup>10</sup> The Trust may also invest in exchange-listed FLEX options, which is presently available on multiple U.S. options exchanges and available for IBIT options and indices tracking multiple U.S. spot bitcoin ETPs.<sup>11</sup>

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<sup>8</sup> See *infra* note 11.

<sup>9</sup> See Securities Exchange Act Release No. 101128 (September 20, 2024), 89 FR 78942 (September 26, 2024) (SR-ISE-2024-03).

<sup>10</sup> For example, Cboe offers listed options on spot bitcoin ETPs. See Securities Exchange Act Release No. 101387 (October 18, 2024). Cboe also offers listed index options on the Cboe Bitcoin U.S. ETF Index and the Mini-Cboe Bitcoin U.S. ETF Index. See [https://www.cboe.com/tradable\\_products/bitcoin-etf-index-options/](https://www.cboe.com/tradable_products/bitcoin-etf-index-options/).

<sup>11</sup> For example, both Nasdaq ISE and Cboe Options offer electronic FLEX trading today. Additionally, the Commission recently approved the trading of FLEX IBIT options on Nasdaq ISE. See Securities Exchange Act Release No. 103563 (July 29, 2025), 90 FR 36242 (August 1, 2025) (SR-ISE-2025-12). Cboe also

In addition to listed options and FLEX options, the Trust's options holdings may consist of OTC options. OTC options represent an important component in the toolkit of an actively managed product, especially one seeking exposure to alternative assets such as bitcoin. The Trust may utilize available OTC options for customized options positions, allowing the Trust to more efficiently obtain exposure to bitcoin and meet its investment objective. The Trust's options holdings will be available on its website ([www.ishares.com](http://www.ishares.com)), which will give investors the ability to track whether the Trust has shifted to the OTC markets.

#### Creation and Redemption of Shares

The Trust issues and redeems Baskets<sup>12</sup> on a continuous basis. Baskets are only issued or redeemed in exchange for an amount of cash, bitcoin or Securities as determined by the Trustee on each day that Nasdaq is open for regular trading. No Shares are issued unless the Cash Custodian, Bitcoin Custodian, Prime Execution Agent, and Securities Custodian has allocated to the Trust's account the corresponding amount of cash, bitcoin, or Securities, as applicable. The amount of cash, bitcoin, or Securities necessary for the creation of a Basket, or to be received upon redemption of a Basket, will vary over the life of the Trust, due to the payment or accrual of fees and other expenses or liabilities payable by the Trust. Baskets may be created or redeemed only by Authorized Participants, who pay BlackRock Investments, LLC ("BRIL"), an affiliate of the Advisor that has been retained by the Trust to perform certain order processing, Authorized Participant communications, and related services in connection with the issuance and redemption of Baskets ("ETF Services"), a transaction fee for each order to create or redeem Baskets.

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offers FLEX trading on both its bitcoin ETP index options and mini bitcoin ETP index options. See [https://www.cboe.com/tradable\\_products/bitcoin-etf-index-options/](https://www.cboe.com/tradable_products/bitcoin-etf-index-options/).

<sup>12</sup> Baskets will be offered continuously at NAV per Share for 40,000 Shares.



The Sponsor will maintain ownership and control of bitcoin and Securities in a manner consistent with good delivery requirements for spot commodity transactions and securities transactions, respectively.

#### Net Asset Value

The net asset value (“NAV”) of the Trust is used by the Trust in its day-to-day operations to measure the net value of the Trust’s assets. The NAV of the Trust will be equal to the total assets of the Trust, which will consist of bitcoin, IBIT and cash, less total liabilities of the Trust, which includes written options on IBIT or indices tracking spot bitcoin ETPs, each determined by the Trustee pursuant to policies established from time to time by the Trustee or its affiliates as described herein. The Sponsor has the exclusive authority to determine the Trust’s NAV, which it has delegated to the Trustee under the Trust Agreement. The Sponsor has delegated to the Trustee the responsibility to calculate the NAV and the NAV per Share for the Trust, based on a pricing source selected by the Trustee. In determining the Trust’s NAV per Share, the Trustee will assess the value of bitcoin and the Securities.

#### *Bitcoin Valuation*

The value of the bitcoin held by the Trust will be based on the index price, unless the Sponsor in its sole discretion determines that the index is unreliable. The CME CF Bitcoin Reference Rate – New York Variant for the Bitcoin – U.S. Dollar trading pair (the “CF Benchmarks Index”) shall constitute the index (the “Index”), unless the CF Benchmarks Index is not available or the Sponsor in its sole discretion determines that the CF Benchmarks Index is unreliable and therefore determines not to use the CF Benchmarks Index as the Index. If the CF Benchmarks Index is not available or the Sponsor determines, in its sole discretion, that the CF Benchmarks Index is unreliable, (together a “Fair Value Event”) the Trust’s holdings may be fair

valued on a temporary basis in accordance with the fair value policies approved by the Trustee. If the CF Benchmarks Index is not used as the Index price, owners of the beneficial interests of Shares (the “Shareholders”) will be notified in a prospectus supplement or on the Trust’s website and, if this index change is on a permanent basis, a filing with the SEC under Rule 19b-4 of the Act will be required. A Fair Value Event value determination will be based upon all available factors that the Sponsor or Trustee deems relevant at the time of the determination, and may be based on analytical values determined by the Sponsor or Trustee using third-party valuation models. Fair value policies approved by the Trustee will seek to determine the fair value price that the Trust might reasonably expect to receive from the current sale of that asset or liability in an arm’s-length transaction on the date on which the asset or liability is being valued consistent with “Relevant Transactions”. In the instance of a Fair Value Event and pursuant the Sponsor’s fair valuation policies and procedures Volume Weighted Average Prices (“VWAP”) or Volume Weighted Median Prices (“VWMP”) from another index administrator (“Secondary Index”) would be utilized. If a Secondary Index is not available or the Sponsor in its sole discretion determines the Secondary Index is unreliable the price set by the Trust’s principal market as of 4:00 p.m. ET, on the valuation date would be utilized. In the event the principal market price is not available or the Sponsor in its sole discretion determines the principal market valuation is unreliable the Sponsor will use its best judgment to determine a good faith estimate of fair value. The Trustee identifies and determines the Trust’s principal market (or in the absence of a principal market, the most advantageous market) for bitcoin consistent with the application of fair value measurement framework in FASB ASC 820-10.<sup>13</sup> The principal market is the market

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<sup>13</sup> See FASB (Financial Accounting Standards Board) Accounting standards codification (ASC) 820-10. For financial reporting purposes only, the Trustee has adopted a valuation policy that outlines the methodology for valuing the Trust’s assets. The policy also outlines the methodology for determining the principal

where the reporting entity would normally enter into a transaction to sell the asset or transfer the liability. The principal market must be available to and be accessible by the reporting entity. The reporting entity is the Trust.

### *Securities Valuation*

The valuation of the Trust's Securities will be done by a third party, which will utilize one or more authorized data sources designated by the Sponsor or the Trustee. Intraday

### Indicative Value

In order to provide updated information relating to the Trust for use by Shareholders, the Trust intends to publish an intraday indicative value per Share ("IIV"). The IIV will be calculated using data provided by one or more third-party data vendors. One or more major market data vendors will provide an IIV updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's regular market session of 9:30 a.m. to 4:00 p.m. ET (the "Regular Market Session"). The IIV will be calculated using the prior day's closing NAV per Share as a base and updating that value during the Exchange's Regular Market Session to reflect changes in the value of the Trust's NAV per Share during the trading day. The IIV is disseminated during the Exchange's Regular Market Session and should not be viewed as an actual real-time update of the NAV per Share, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Market Session by one or more major market data vendors. In addition, the IIV will be available through online information services.

### Availability of Information

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market (or in the absence of a principal market, the most advantageous market) in accordance with FASB ASC 820-10.

The website for the Trust, which will be publicly accessible at no charge, will prominently disclose the information required under Rule 5711(v).

The NAV per Share for the Trust will be calculated once a day and will be disseminated daily to all market participants at the same time. Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor. Also, an estimated value that reflects an estimated IIV will be disseminated. For more information on the IIV, including the calculation methodology, see “Intraday Indicative Value” above.

The IIV disseminated during the Exchange’s Regular Market Session should not be viewed as an actual real time update of the NAV per Share, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange’s Regular Market Session by one or more major market data vendors. In addition, the IIV will be available through online information services.

Quotation and last sale information for the Trust’s holdings is widely disseminated through a variety of major market data vendors. Information relating to trading, including price and volume information, in the Trust’s holdings is available from major market data vendors and from the platforms on which such holdings are traded. Depth of book information is also available from those platforms. As it relates to bitcoin, the normal trading hours for platforms are 24 hours per day, 365 days per year.

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.

### Applicable Standard

As noted above, the Trust’s holdings of bitcoin, IBIT, listed options, and FLEX options meet the eligibility criteria in the General Listing Standards under Rule 5711(iv). Further, the Commission has previously issued orders granting approval for proposals to list bitcoin-based commodity trust shares and bitcoin-based trust issued receipts (“Spot Bitcoin ETPs”).<sup>14</sup> In the Spot Bitcoin ETP Approval Order, the Commission found that sufficient “other means” of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. Specifically, the Commission found that while the Chicago Mercantile Exchange (“CME”) futures market for bitcoin was not of “significant size” with respect to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals, including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission’s own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME’s surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges’ comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of “significant size” related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].<sup>15</sup>

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<sup>14</sup> See Securities Exchange Act No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; 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) (the “Spot Bitcoin ETP Approval Order”).

<sup>15</sup> See Spot Bitcoin ETP Approval Order, *supra* note 11. The SEC made substantially similar findings in the approval order for spot Ether ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

With respect to the Trust’s bitcoin holdings, today, both the CME and Coinbase Derivatives, LLC (“Coinbase Derivatives”) offer trading in bitcoin futures. Nasdaq has a comprehensive surveillance-sharing agreement with both the CME and Coinbase Derivatives via its common membership in the Intermarket Surveillance Group (“ISG”).<sup>16</sup> This facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective bitcoin futures market.

With respect to the Trust’s investments in IBIT, options, and FLEX options, the Exchange has the ability to obtain information regarding trading in these securities from other markets that are members of the ISG. Accordingly, the Exchange believes that its ability to share information regarding trading in the Trust’s investments from other markets via common ISG membership would assist the Exchange in surveilling for fraudulent and manipulative acts and practices.

Given that OTC options are not traded publicly, the Trust would not have the ability to obtain information regarding trading in IBIT OTC options. Additionally, as OTC options are bilateral agreements, the Trust may be subject to counterparty risk in the event there is fraud or manipulation by the OTC options seller. However, participants in the U.S. OTC options market for IBIT are generally regulated by their institutional supervisors, and the Commission regulates market participants with and has established rules designed to improve transparency and investor protection in the OTC markets.<sup>17</sup> To enhance transparency the Trust will publish its holdings on its website to ensure investors are aware of any OTC option positions held by the Trust.

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<sup>16</sup> For a list of the current members and affiliate members of ISG, see <https://isgportal.org/public-members>.

<sup>17</sup> See Publication or Submission of Quotations Without Specified Information, 85 Fed. Reg. 68124 (Oct. 27, 2020) (to be codified at 17 C.F.R. pts. 230 & 240).

Additionally, the Trust will include disclosure in its prospectus of the risk related to trading in OTC options these options to ensure investors are sufficiently aware of the risk of holding Shares. The Trust will also publish its holdings on its website to ensure investors are aware of any OTC option positions held by the Trust.

#### Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(viii), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV per Share will be calculated daily and will be made available to all market participants at the same time. A minimum of 80,000 Shares will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing.

As required in Nasdaq Rule 5711(d)(xii), the Exchange notes that any registered market maker ("Market Maker") in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity and commodity-based asset, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, commodity-based asset, or any other related derivative thereon in an account in which a registered Market Maker (1) directly or indirectly controls trading activities, or has a direct interest in the profits or losses thereof, (2) is required by this Rule to disclose to the Exchange, and (3) has not reported to Nasdaq.

In addition to the existing obligations under Exchange rules regarding the production of books and records (see, e.g., Rule 4625), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information

pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying commodity or commodity-based asset, or applicable derivatives of each of the foregoing, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying securities, bitcoin, bitcoin futures contracts, or any other bitcoin derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

#### 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. The Exchange will allow trading in the Shares from 4:00 a.m. to 8:00 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A-3 of the Act.

#### 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 Rules 4120, 4121, and 5711(d)(ix), including without limitation the conditions specified in Rules 4120(a)(9), 4120(a)(10), and 5711(d)(ix), and the trading pauses under Rules 4120(a)(11) and (12).

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 the bitcoin and/or Securities underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

In addition, pursuant to Rule 5711(d)(ix), the Exchange may halt trading during the day in which an interruption occurs in any of the scenarios specified therein. If the interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

### 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. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the

Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, bitcoin futures, and the Trust's IBIT, options, and FLEX options holdings from such markets and other entities.

#### Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular ("Information Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which imposes suitability

obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and NAV is disseminated; (4) the risks involved in trading the Shares during the pre-market and post-market sessions when an updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding bitcoin, that the Commission has no jurisdiction over the trading of bitcoin as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</sup> in particular, in that it is designed 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.

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<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

The Commission has approved numerous series 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 this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Trust's holdings, with the exception of OTC options, will meet the eligibility criteria in the General Listing Standards under Rule 5711(iv). In the case of the OTC options, the ability to use OTC options will allow the Trust to better meet its investment objective. Further, the Commission has previously issued orders granting approval for proposals to list Spot Bitcoin ETPs.<sup>20</sup> In the Spot Bitcoin ETP Approval Order, the Commission found that sufficient "other means" of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. As discussed above, the Commission found that while the CME futures market for bitcoin was not of "significant size" with respect to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

With respect to the Trust's bitcoin holdings, today, both the CME and Coinbase Derivatives offer trading in bitcoin futures. Nasdaq has a comprehensive surveillance-sharing agreement with both the CME and Coinbase Derivatives via its common ISG membership. This

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<sup>20</sup> See supra note 11.

facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective bitcoin futures market.

With respect to the Trust's investments in IBIT, options, and FLEX options, the Exchange has the ability to obtain information regarding trading in these securities from other markets that are members of the ISG. Accordingly, the Exchange believes that its ability to share information regarding trading in the Trust's investments from other markets via common ISG membership would assist the Exchange in surveilling for fraudulent and manipulative acts and practices.

With respect to the Trust's investments in IBIT OTC options, the Exchange will not have the ability to obtain information regarding trading in these securities from other markets that are members of the ISG. However, the Exchange believes that the Trust's disclosure of these options and the risks posed by these options will ensure investors are sufficiently aware of the risk of holding Shares.

While the Trust will be an actively-managed product, the Exchange does not believe this raises any novel regulatory issues under the Act. Indeed, in the context of SEC Rule 6c-11 ETFs, the Commission did not distinguish between active and passive management, and found they function similarly with respect to operational matters.<sup>21</sup> There, the Commission concluded: “[w]e therefore believe that eliminating the regulatory distinction between index-based ETFs and actively managed ETFs for purposes of exemptive relief under the Act will help to provide a more consistent and transparent regulatory framework for ETFs organized as open-end funds.

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<sup>21</sup> See Securities Exchange Act Release No. 33-10695 (September 26, 2019), 84 FR 57162 (October 24, 2019), at 57168.

This approach is consistent with our regulation of other types of open-end funds, which does not distinguish between actively managed and index-based strategies.” In other words, the regulatory framework treats active and passive ETFs registered under the 1940 Act as functionally similar from a market oversight perspective. The Exchange believes that extending this logic to the ETPs registered under the 1933 Act will bring regulatory parity between actively-managed ETPs under the 1933 Act and 1940 Act. Furthermore, as discussed above, the Exchange believes there is substantial market demand for actively-managed strategies, and that this proposal would benefit investors by providing a transparent, regulated investment vehicle as an alternative to less regulated avenues that investors could use to obtain bitcoin exposure.

The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). 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. As discussed above, the surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange’s surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the

Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange may obtain trading information regarding trading in the Shares, listed bitcoin futures, and the Trust's Securities holdings, with the exception of OTC options, from such markets and other entities that are members of ISG.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

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 Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

For all 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 not necessary or appropriate in furtherance of the purposes of the Act. The

Exchange notes that the proposed rule change will rather facilitate the listing and trading of an additional ETP that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

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

No written comments were either solicited or received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NASDAQ-2025-085 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-NASDAQ-2025-085. 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 filing 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-2025-085 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>22</sup> 17 CFR 200.30-3(a)(12).