

1. Text of Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> NYSE American LLC (“NYSE American” or the “Exchange”) proposes to amend Rule 915 (Criteria for Underlying Securities) to permit options on Commodity-Based Trust Shares.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Kathleen E. Murphy  
Senior Counsel  
NYSE Group, Inc.  
(212) 656-4841

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

(a) Purpose

The purpose of this filing is to amend Rule 915 (Criteria for Underlying Securities). Specifically, the Exchange proposes modify Rule 915, Commentary .06, regarding the criteria for listing and trading options on Exchange-Traded Fund Shares (“ETFs”), to allow options on units that represent interests in a trust that is a Commodity-Based Trust.

The Exchange notes that this proposal is competitive as Nasdaq ISE, LLC (“ISE”) has

---

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

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

submitted a substantially identical rule change.<sup>3</sup>

A Commodity-Based Trust is defined in NYSE Arca, Inc. Rule 8.201(c)(1), The Nasdaq Stock Market LLC Rule 5711(d)(iv), and Cboe BZX Exchange, Inc. 14.11(e)(4) as a security (a) that is issued by a trust (“Trust”) that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is 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 (c) 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.

The Exchange proposes to amend its listing criteria at Rule 915, Commentary .06(iv) to provide that

.06 Securities deemed appropriate for options trading shall include shares or other securities (“Exchange-Traded Fund Shares”) that are traded on a national securities exchange and are defined as an “NMS” stock under Rule 600 of Regulation NMS, and that... or (iv) represent interests in a security (a) issued by a trust that holds (1) a specified commodity deposited with the trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is 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 (c) 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 (“Commodity-Based Trust Share”).

The Exchange proposes to insert this proposed rule text and to remove the now-unnecessary references to SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the ETFS Silver Trust, ETFS Gold Trust, the ETFS Palladium Trust, and the ETFS Platinum, the iShares Bitcoin Trust, the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the Grayscale Bitcoin Trust (BTC), the Grayscale Bitcoin Mini Trust BTC, and the Bitwise Bitcoin ETF, which are all Commodity-Based Trust Shares.<sup>4</sup> As a result of this amendment, the Exchange’s listing criteria would allow any ETF approved to list on the primary market as a Commodity-Based Trust Share to qualify as an underlying for options traded on the Exchange, provided other listing

---

<sup>3</sup> See Securities Exchange Act Release No. 102465 (February 20, 2025), 90 FR 10740 (February 26, 2025) (SR-ISE-2025-08) (Notice of Filing of Proposed Rule Change to Amend Options 4, Section 3, Criteria for Underlying Securities to permit options on Commodity-Based Trust Shares).

<sup>4</sup> See proposed Rule 915, Commentary .06(iv). Consistent with this change, the Exchange proposes to delete the text in both Commentary .10 to Rule 915 and Commentary .11 to Rule 916, and to designate each Commentary as “Reserved.”

criteria have been met.<sup>5</sup>

The Exchange’s initial listing standards in Rule 915 will apply to options on Commodity-Based Trust Shares. Rule 915(a) requires that a security on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act) and be characterized by a substantial number of outstanding shares that are widely held and actively traded.<sup>6</sup> Further, for an ETF to qualify for options transactions pursuant to Commentary .06(a) to Rule 915 (“Commentary .06”), the ETF must either (1) meet the criteria for underlying securities set forth in Commentary .01<sup>7</sup> or (2) be available for creation and redemption each business day as set forth in Commentary .06(a)(ii).<sup>8</sup>

Additionally, Commodity-Based Trust Shares will also be subject to the Exchange’s continued listing standards for options on ETFs, including those set out in Commentary .07 to Rule 916. Moreover, Commodity-Based Trust Shares will not be deemed to meet the requirements for continued approval, and the Exchange will not open for trading any additional series of option contracts covering Commodity-Based Trust Shares if such security ceases to be an “NMS stock” as provided for in Commentary .01(5) to Rule 916 or the Commodity-Based Trust Share is halted from trading on its primary market.<sup>9</sup> The Exchange notes that ETFs that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options pursuant to Commentary .06 are trusts structured in substantially the same manner as options on a Commodity-Based Trust Share and essentially offer the same objectives and

---

<sup>5</sup> The Exchange believes this proposal is consistent with the OCC’s recent amendment of “Fund Share” (which covers ETFs), as defined in Article I of OCC’s By-Laws (including the Interpretation and Policy), to remove reference to specific precious metals commodity-based ETFs as “no longer relevant or necessary.” See Securities Exchange Act Release No. 102018 (December 20, 2024), 89 FR 106660 (December 30, 2024) (SR-OCC-2024-018). The impetus for this rule change was the staff advisory issued by the Commodity Futures Trading Commission (“CFTC”) that deemed it “‘substantially likely’ that spot commodity ETF shares would be held to be securities” which, in turn, resulted in the OCC’s determination that “it no longer needs to seek product-by-product exemptive relief from the CFTC to clear spot commodity-based ETF products, including precious metals commodity-based ETFs.” See *id.*, 89 FR, at 106661. See also CFTC Staff Advisory Relating to the Clearing of Options on Spot Commodity Exchange Traded Funds (ETFs), Letter No. 24-16 (Nov. 15, 2024), available at <https://www.cftc.gov/csl/24-16/download>.

<sup>6</sup> The criteria and guidelines for a security to be considered widely held and actively traded are set forth in Commentary .01 to Rule 915, subject to exceptions.

<sup>7</sup> Commentary .01 to Rule 915 sets forth the guidelines and criteria relied on by the Exchange when evaluating potential underlying securities for Exchange option transactions.

<sup>8</sup> Commentary .06(a)(ii) to Rule 915 requires that ETFs must be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue ETFs in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus.

<sup>9</sup> See Commentary .07 to Rule 916

benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any ETF options, including ETFs that hold commodities (i.e., precious metals) that it currently lists and trades on the Exchange.

Consistent with Rule 903, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on a Commodity-Based Fund Share<sup>10</sup> at the commencement of trading on the Exchange and may also list series of options on such Commodity-Based Fund Share for trading on a weekly,<sup>11</sup> monthly,<sup>12</sup> or quarterly<sup>13</sup> basis. The Exchange may also list long-term equity option series (“LEAPS”) that expire from twelve to thirty-nine months from the time they are listed.<sup>14</sup>

Pursuant to Rule 903, Commentary .05(a), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on a Commodity-Based Fund Share will be \$1 or greater when the strike price is \$200 or less and \$5 or greater where the strike price is over \$200.<sup>15</sup> Additionally, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>16</sup> the \$0.50 Strike Program,<sup>17</sup>

---

<sup>10</sup> See Rule 903(c), Commentary .03. The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 915. Monthly listings expire the third Friday of the month. The term “expiration date” (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. See OCC By-Laws Article I, Section 1. Pursuant to Rule 903(d), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

<sup>11</sup> See Rule 903(h).

<sup>12</sup> See Rule 903, Commentary .11.

<sup>13</sup> See Rule 903, Commentary .09.

<sup>14</sup> See Rule 903, Commentary .03.

<sup>15</sup> The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Monthly Options Series Program, and the Quarterly Options Series Program, Rules 903(h) and Commentaries .09 and .03 to Rule 903, specifically set forth intervals between strike prices on Quarterly Options Series, Short Term Option Series, and Monthly Options Series, respectively.

<sup>16</sup> See Rule 903, Commentary .06.

<sup>17</sup> See Rule 903, Commentary .13.

the \$2.50 Strike Price Program,<sup>18</sup> and the \$5 Strike Program.<sup>19</sup> Pursuant to Rule 6.72-O, where the price of a series of options on a Commodity-Based Fund Share is less than \$3.00, the minimum increment will be \$0.05, and where the price is \$3.00 or higher, the minimum increment will be \$0.10.<sup>20</sup> Any and all new series of options on a Commodity-Based Fund Share that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 6.4-O and 6.72-O, as applicable.

Options on a Commodity-Based Trust Share will trade in the same manner as options on other ETFs on the Exchange. The Exchange Rules that currently apply to the listing and trading of all options on ETFs on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures would apply to the listing and trading of options on a Commodity-Based Trust Share on the Exchange in the same manner as they apply to other options on all other ETFs that are listed and traded on the Exchange.

Position and exercise limits for options, including options on a Commodity-Based Trust Share are determined pursuant to Rules 904 and 905, respectively. Position and exercise limits for options on ETFs vary according to the number of outstanding shares and the trading volumes of the underlying security over the past six months, where the largest in capitalization and the most frequently traded funds have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization funds have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.<sup>21</sup> Further, the Exchange notes that Rule 462, which governs margin requirements applicable to the trading of all options on the Exchange, including options on ETFs, will also apply to the trading of options on a Commodity-Based Trust Share.

The Exchange represents that the surveillance procedures applicable to all other options on ETFs will apply to options on Commodity-Based Trust Shares, and that it has the necessary systems capacity to support the new option series. The Exchange's existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on ETFs, including options on Commodity-Based Trust Shares. Also, the Exchange may obtain

---

<sup>18</sup> See Rule 903, Commentary .07(a).

<sup>19</sup> See Rule 903, Commentary .12.

<sup>20</sup> If options on a Commodity-Based Trust Share are eligible to participate in the Penny Interval Program, the minimum increment of \$0.01 below \$3.00 and \$0.50 above \$3.00 would apply. See Rule 960NY(a)(3). See also Rule 960.1NY (which describes the requirements for the Penny Interval Program).

<sup>21</sup> See Commentary .07(a)-(d) to Rule 904.

trading information via the Intermarket Surveillance Group (“ISG”)<sup>22</sup> from other exchanges who are members of the ISG. In addition, the Exchange has a Regulatory Services Agreement with the Financial Industry Regulatory Authority (“FINRA”). Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate regulatory responsibilities to FINRA to conduct certain options-related market surveillances. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Commodity-Based Trust Shares.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing of new series of ETFs, including options on a Commodity-Based Trust Share, up to the number of expirations currently permissible under the Exchange Rules. The Exchange believes any additional traffic generated from the trading of options on Commodity-Based Trust Shares would be manageable. The Exchange represents that Exchange members will not have a capacity issue as a result of this proposed rule change.

Further, quotation and last sale information for Commodity-Based Trust Shares is available via the Consolidated Tape Association (“CTA”) high speed line. Quotation and last sale information for such securities is also available from the exchange on which such securities are listed. Quotation and last sale information for options on Commodity-Based Trust Shares will be available via OPRA<sup>23</sup> and major market data vendors.

The Exchange notes that the Commission has previously approved generic listing standards pursuant to Rule 19b-4(e) of the Act<sup>24</sup> for ETFs based on indexes that consist of stocks listed on U.S. exchanges<sup>25</sup> In addition, the Commission has previously approved proposals for the listing and trading of options on ETFs based on international indexes as well as global indexes (e.g., based on non-U.S. and U.S. component stocks).<sup>26</sup>

---

<sup>22</sup> A complete list of the current members of the ISG, is available at <http://www.isgportal.org>.

<sup>23</sup> Last sale reports and quotations are the core of the information that OPRA disseminates. OPRA also disseminates certain other types of information with respect to the trading of options on the markets of the OPRA participants, such as the number of options contracts traded, open interest and end of day summaries. OPRA also disseminates certain kinds of administrative messages.

<sup>24</sup> 17 CFR 240.19b-4(e).

<sup>25</sup> See Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (SR-AMEX-2006-78) (approval order relating to generic listing standards for ETFs based on international or global indexes).

<sup>26</sup> See, e.g., Securities Exchange Act Release Nos. 56778 (November 9, 2007), 72 FR 65113 (November 19, 2007) (SR-AMEX-2007-100) (approval order to list and trade options on iShares MSCI Mexico Index Fund; and 55648 (April 19, 2007), 72 FR 20902 (April 26, 2007) (SR-AMEX-2007-09) (approval order to list and trade options on Vanguard Emerging Markets ETF). See also Securities Exchange Act Release Nos. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (SR-AMEX-2001-05) (approving the listing and trading of certain Vanguard International Equity Index Funds); and 44700 (August 14, 2001), 66 FR 43927 (August 21, 2001) (SR-2001-34) (approving the listing and trading of series of the iShares Trust

In approving Commodity-Based Trust Shares for equities exchange trading, the Commission thoroughly considered the structure of the Commodity-Based Trust Shares, their usefulness to investors and to the markets, and SRO rules that govern their trading. The Exchange believes that allowing the listing of options overlying Commodity-Based Trust Shares that are listed pursuant to Commission approval on equities exchanges and applying Rule 19b-4(e)<sup>27</sup> should fulfill the intended objective of that rule by allowing options on those Commodity-Based Trust Shares that have satisfied the generic listing standards to commence trading, without the need for the public comment period and Commission approval. The proposed rule change has the potential to significantly reduce the time and costs associated with bringing options on Commodity-Based Trust Shares to market, thereby reducing the burden on issuers and other market participants, while also promoting competition among options exchanges, to the benefit of the investing public. The failure of a particular Commodity-Based Trust Share to comply with the generic listing standards under Rule 19b-4(e)<sup>28</sup> would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2),<sup>29</sup> requesting Commission approval to list and trade options on a particular Commodity-Based Trust Share.

(b) Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act,<sup>30</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>31</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes the proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system because it would allow the Exchange to immediately list and trade options on Commodity-Based Trust Shares, provided the initial listing criteria has been met, without requiring additional approvals from the Commission.<sup>32</sup>

Commodity-Based Trust Shares are securities approved for trading by the Commission. The Exchange believes that allowing options on qualifying Commodity-Based Trust

---

based on foreign stock indexes).

<sup>27</sup> 17 CFR 240.19b-4(e).

<sup>28</sup> Id.

<sup>29</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>32</sup> As noted herein, the Exchange believes this proposal is consistent with the OCC's determination that, based on a staff advisory from the CFTC, the "it no longer needs to seek product-by-product exemptive relief from the CFTC to clear spot commodity-based ETF products." See supra note 5.

Shares soon after the listing of such underlying security in the primary market will benefit investors and the public interest as it will afford market participants the opportunity to hedge their positions in the underlying ETF in a timely manner. Given the potential to reduce the time to market for options on Commodity-Based Trust Shares, the proposed rule change will also reduce the burdens on issuers and other market participants, while also promoting competition among options exchanges to the benefit of the investing public.

This proposal will enable the listing of options on Commodity-Based Trust Shares in the same manner as all other securities listed and traded on the Exchange. The Exchange notes that most ETFs are eligible for options trading without the need for additional approvals, provided the ETFs meet the initial listing criteria. Accordingly, the proposed rule change would align the treatment of Commodity-Based Trust Shares with other ETFs for purposes of options trading, which would add internal consistency to Exchange rules. The Exchange believes that the proposed rule change will facilitate the listing and trading of options on additional ETFs that will enhance competition among market participants, to the benefit of investors and the marketplace.

Like options on any other securities, options on Commodity-Based Trust Shares will provide investors with the ability to hedge exposure to the underlying security. The Exchange believes that offering options on Commodity-Based Trust Shares will benefit investors by providing them with a relatively lower-cost risk management tool, which will allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of a commodity. Additionally, the Exchange's offering of options on Commodity-Based Trust Shares will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. As noted herein, the Exchange already lists options on other commodity-based ETFs,<sup>33</sup> which are trusts structured in substantially the same manner as Commodity-Based Trust Shares. The Exchange has not identified any issues with the continued listing and trading of options on Commodity-Based Trust Shares.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules previously filed with the Commission. Options on Commodity-Based Trust Shares must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules applicable to options on all ETFs, including ETFs that hold other commodities already deemed appropriate for options trading on the Exchange.<sup>34</sup> Options on Commodity-Based Trust Shares will trade in the same manner as any other ETF options — the same Exchange Rules that currently govern the listing and trading of options, including permissible expirations, strike prices,

---

<sup>33</sup> See Rule 915, Commentary .10.

<sup>34</sup> See *id.*

minimum increments, and margin requirements, will govern the listing and trading of options on Commodity-Based Trust Shares in the same manner.

The Exchange believes the proposed rule change will result in increased competition as other exchanges will likely adopt an identical rule to the one proposed by the Exchange that would allow the listing and trading of options on Commodity-Based Trust Shares that are approved for trading on those other markets.<sup>35</sup> Multiple listing of ETFs, options and other securities and competition are some of the central features of the national market system. The Exchange believes that the proposal would encourage a more open market and national market system based on competition and multiple listing.

The Exchange represents that it has the necessary systems capacity to support the listing and trading of options on Commodity-Based Trust Shares as the Exchange lists these products today, except that it requires additional approvals prior to listing. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading of options on Commodity-Based Trust Shares.

4. 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 purposes of the Act. To the contrary, the Exchange believes that the proposal is pro-competitive and is a competitive response to the Exchange's inability to list options on Commodity-Based Trust Shares without submitting a separate proposed rule change. The Exchange believes the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Competition is one of the principal features of the national market system. The Exchange believes that this proposal will expand competitive opportunities to list and trade products on the Exchange as noted.

*Intramarket Competition:* The Exchange does not believe the proposal will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because Commodity-Based Trust Shares, like any other ETF, would have to satisfy the Exchange's initial listing standards to be eligible for options trading. Additionally, the proposed rule change would apply to all market participants in the same manner as options on Commodity-Based Trust Shares will be equally available to all market participants who wish to trade such options.

*Intermarket Competition:* The Exchange does not believe the proposal will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, as nothing prevents the other options exchanges from proposing similar rules to list and trade options on Commodity-Based Trust Shares. As noted

---

<sup>35</sup> See supra note 3.

herein, ISE has submitted a proposal to adopt an identical rule to allow ISE list and trade options on Commodity-Based Trust Shares without submitting a separate proposed rule change.<sup>36</sup>

Furthermore, the Exchange notes that listing and trading options on a Commodity-Based Trust Share on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios in a timely manner.

5. 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.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is substantively identical to the proposal by ISE to modify Options 4, Section 3, Criteria for Underlying Securities to permit options on Commodity-Based Trust Shares.<sup>37</sup>

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

---

<sup>36</sup> See supra note 3.

<sup>37</sup> See supra note 3.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5 – Text of the Proposed Rule Change