

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103198; File No. SR-NYSEARCA-2025-38]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Bitwise Bitcoin ETF Trust and the Bitwise Ethereum ETF in Order to Permit In-Kind Creations and Redemptions

June 5, 2025.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on May 21, 2025, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change to amend the Bitwise Bitcoin ETF Trust and the Bitwise Ethereum ETF to permit in-kind creations and redemptions. On June 4, 2025, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, is described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change, as Modified by Amendment No. 1

The Exchange proposes to amend the Bitwise Bitcoin ETF Trust and the Bitwise Ethereum ETF, shares of which have been approved by the Commission to list and trade on the Exchange pursuant to Rule 8.201-E (Commodity-Based Trust Shares), to permit in-kind

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

creations and redemptions. This Amendment No. 1 to SR-NYSEARCA-2025-38 replaces SR-NYSEARCA-2025-38 as originally filed and supersedes such filing in its entirety. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, as Modified by Amendment No. 1

In its filing with the Commission, the self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend the Bitwise Bitcoin ETF Trust (the “Bitcoin Trust”) and the Bitwise Ethereum ETF (the “ETH Trust” and, together with the Bitcoin Trust, the “Trusts”), shares of which have been approved by the Commission to list and trade on the Exchange pursuant to Rule 8.201-E (Commodity-Based Trust Shares), to permit in-kind creations and redemptions.

Background

The Commission approved the listing and trading of shares (“Bitcoin Trust Shares”) of the Bitcoin Trust on the Exchange under Rule 8.201-E (Commodity-Based Trust Shares) on January 10, 2024.⁴ The Commission also approved the listing and trading of shares of the ETH

⁴ See Securities Exchange Act Release No. 99306 (Jan. 10, 2024), 89 FR 3008 (Jan. 17, 2024) (SR-

Trust (“ETH Trust Shares”) under Rule 8.201-E (Commodity-Based Trust Shares) on May 23, 2024.⁵

Rule 8.201-E governs the listing and trading of Commodity-Based Trust Shares. Commodity-Based Trust Shares are securities issued by a trust that represent investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust. The Bitcoin Trust Shares are issued by the Bitcoin Trust, a Delaware statutory trust, and the ETH ETP Shares are issued by the ETH Trust, also a Delaware statutory trust.

Proposed Rule Change - Bitcoin Trust

The Exchange proposes to amend representations regarding the Bitcoin Trust’s creation and redemption process as set forth in its previous rule filing to list and trade Bitcoin Trust Shares in order to allow for in-kind transfers of the Bitcoin Trust’s bitcoin.⁶ The proposed in-kind transfer process will be an alternative to the Bitcoin Trust’s current cash only creation and redemption process.

In order to effectuate this change, the Exchange proposes certain changes to Amendment No. 2 to the Bitcoin Trust Shares filing as described below. Except for the changes described below, all other representations in Amendment No. 2 remain unchanged and will continue to constitute continued listing requirements. In addition, the Bitcoin Trust will continue to comply with the terms of Amendment No. 2 and the requirements of Rule 8.201-E.

NYSEArca-2023-44) (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 “Bitcoin Approval Order”).

⁵ See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2024-31) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange Traded Products) (the “Ether Approval Order”).

⁶ See Securities Exchange Act Release No. 99294 (Jan. 8, 2024), 89 FR 2297 (Jan. 12, 2024) (SR-NYSEArca-2023-44) (Notice of Filing of Amendment No. 2 to a Proposed Rule Change To List and Trade Shares of the Bitwise Bitcoin ETF Under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares)).

Operation of the Trust

The Exchange proposes to amend the third paragraph in the section of Amendment No. 2 titled “Operation of the Trust” as follows (additions italicized):

The Trust’s only assets will be bitcoin and cash.¹⁵ The Trust does not seek to hold any non-bitcoin crypto assets and has expressly disclaimed ownership of any such assets in the event the Trust ever involuntarily comes into possession of such assets.¹⁶ The Trust will not use derivatives that may subject the Trust to counterparty and credit risks. The Trust will process creations and redemptions in cash *or bitcoin*. The Trust’s only recurring ordinary expense is expected to be the Sponsor’s unitary management fee (the “Sponsor Fee”), which will accrue daily and will be payable in bitcoin monthly in arrears. The Administrator will calculate the Sponsor Fee on a daily basis by applying an annualized rate to the Trust’s total bitcoin holdings, and the amount of bitcoin payable in respect of each daily accrual shall be determined by reference to the CME US Reference Rate. Financial institutions authorized to create and redeem Shares (each, an “Authorized Participant”) will deliver, or cause to be delivered, cash *or bitcoin* in exchange for Shares of the Trust, and the Trust will deliver cash *or bitcoin* to Authorized Participants when those Authorized Participants redeem Shares of the Trust.

Footnote 15: The Trust conducts creations and redemptions of its Shares for cash *or bitcoin*. *In connection with cash creations*, Authorized Participants will deliver cash to the Cash Custodian pursuant to creation orders for Shares and the Cash Custodian will hold such cash until such time as it can be converted to bitcoin, which the Trust intends to do on the same business day in which such cash is received by the Cash Custodian. Additionally, the Trust will sell bitcoin in exchange for cash pursuant to cash redemption

orders of its Shares. In connection with such sales, an approved Bitcoin Trading Counterparty (defined below) will send cash to the Cash Custodian. The Cash Custodian will hold such cash until it can be distributed to the redeeming Authorized Participant, which it intends to do on the same business in which it is received. In connection with the purchases and sales of bitcoin pursuant to its creation and redemption activity, it is possible that the Trust may retain de minimis amounts of cash as a result of rounding differences. The Trust may also initially hold small amounts of cash to initiate Trust operations in the immediate aftermath of its Registration Statement being declared effective. Lastly, the Trust may also sell bitcoin and temporarily hold cash as part of a liquidation of the Trust or to pay certain extraordinary expenses not assumed by the Sponsor. Under the Trust Agreement, the Sponsor has agreed to assume the normal operating expenses of the Trust, subject to certain limitations. For example, the Trust will bear any indemnification or litigation liabilities as extraordinary expenses. In any event, in the ongoing course of business, the amounts of cash retained by the Trust are not expected to constitute a material portion of the Trust's holdings. *In connection with in-kind creations, Authorized Participants will submit orders by an order cutoff time to create "Baskets" of Shares in exchange for bitcoin. On the settlement date for an in-kind creation, the Trust delivers Shares to the Authorized Participant in exchange for bitcoin received from the Authorized Participant or its designated agent or client. The Authorized Participant or its designated agent or client will deposit such bitcoin with the Bitcoin Custodian. In connection with in-kind redemptions, the Authorized Participants will submit orders by an order cutoff time to redeem Baskets of Shares in exchange for bitcoin. On the settlement date for an in-kind redemption, the Trust delivers bitcoin to the*

account of the Authorized Participant or its designated agent or client in exchange for Shares received from the Authorized Participant.

Footnote 16: No change

Creation and Redemption of Shares

The Exchange proposes to amend the section of Amendment No. 2 titled “Creation and Redemption of Shares” to integrate the proposed in-kind creation and redemption process, as follows (additions italicized, deletions bracketed):

The Trust creates and redeems Shares from time to time, but only in one or more Creation Units, which will initially consist of at least 10,000 Shares, but may be subject to change (“Creation Unit”). A Creation Unit is only made in exchange for delivery to the Trust or the distribution by the Trust of an amount of cash *or bitcoin*, equivalent to the amount of bitcoin represented by the Creation Unit being created or redeemed, the amount of which is representative of the combined NAV of the number of Shares included in the Creation Units being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem Creation Units is properly received. Except when aggregated in Creation Units or under extraordinary circumstances permitted under the Trust Agreement, the Shares are not redeemable securities.

Authorized Participants are the only persons that may place orders to create and redeem Creation Units. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (2) Depository Trust Company (“DTC”) Participants. To become an Authorized Participant, a person must enter into an Authorized Participant Agreement with the Trust

and/or the Trust's marketing agent (the "Marketing Agent").

According to the Registration Statement, when purchasing or selling bitcoin in response to the purchase of Creation Units or the redemption of Creation Units[, which will be processed in cash], the Trust would do so pursuant to either (1) a "Trust-Directed Trade Model," or (2) an "Agent Execution Model," which are each described in more detail below.

The Trust intends to utilize the Trust-Directed Trade Model for all purchases and sales of bitcoin and would only utilize the Agent Execution Model in the event that no Bitcoin Trading Counterparty is able to effectuate the Trust's purchase or sale of bitcoin. Under the Trust-Directed Trade Model, in connection with receipt of a purchase order or redemption order, the Sponsor, on behalf of the Trust, would be responsible for acquiring bitcoin from an approved Bitcoin Trading Counterparty in an amount equal to the Basket Amount. When seeking to purchase bitcoin on behalf of the Trust, the Sponsor will seek to purchase bitcoin at commercially reasonable price and terms from any of the approved Bitcoin Trading Counterparties.²⁵ Once agreed upon, the transaction will generally occur on an "over-the-counter" basis.

[Whether utilizing the Trust-Directed Trade Model or the Agent Execution Model, the Authorized Participants will deliver only cash to create shares and will receive only cash when redeeming Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive bitcoin as part of the creation or redemption process or otherwise direct the trust or a third party with respect to purchasing, holding, delivering, or receiving bitcoin as part of the creation or redemption process. Additionally, under both the Trust-Directed Trade Model or the Agent Execution Model, the Trust will create

Shares by receiving bitcoin from a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust—not the Authorized Participant—is responsible for selecting the third party to deliver the bitcoin. The third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the bitcoin to the Trust or acting at the direction of the Authorized Participant with respect to the delivery of the bitcoin to the Trust. Additionally, the Trust will redeem Shares by delivering bitcoin to a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust—not the Authorized Participant—is responsible for selecting the third party to receive the bitcoin. Finally, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the bitcoin from the Trust or acting at the direction of the Authorized Participant with respect to the receipt of the bitcoin from the Trust.]

Footnote 25: No change

Acquiring and Selling Bitcoin Pursuant to Creation and Redemption of Shares Under the Trust-Directed Model

Under the Trust-Directed Trade Model and as set forth in the Registration Statement, on any business day, an Authorized Participant may create Shares by placing an order to purchase one or more Creation Units with the Transfer Agent through the Marketing Agent. Such orders are subject to approval by the Marketing Agent and the Transfer Agent. For purposes of processing creation and redemption orders, a “business day” means any day other than a day when the Exchange is closed for regular trading (“Business Day”). To be processed on the date submitted, creation orders must be placed before 4 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, but may be required to be placed earlier at the discretion of the Sponsor. A purchase

order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent (“Purchase Order Date”).

Creation Units are processed in cash *or bitcoin*. By placing a purchase order, an Authorized Participant agrees to deposit, or cause to be deposited, an amount of cash *or bitcoin* equal to the quantity of bitcoin attributable to each Share of the Trust (net of accrued but unpaid expenses and liabilities) multiplied by the number of Shares (10,000) comprising a Creation Unit (the “Basket Amount”). The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the Basket Amount relating to a Creation Unit applicable for such Business Day. That amount is derived by multiplying the Basket Amount by the value of bitcoin ascribed by the CME US Reference Rate. However, the Authorized Participant is also responsible for any additional cash *or bitcoin* required to account for the price at which the Trust agrees to purchase the requisite amount of bitcoin from a bitcoin trading counterparty approved by the Sponsor (“Bitcoin Trading Counterparty”)²⁶ to the extent it is greater than the CME US Reference Rate price on each Purchase Order Date.

Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the creation order.

Authorized Participants may not withdraw a creation request. If an Authorized Participant fails to consummate the foregoing, the order may be cancelled.

Following the acceptance of a purchase order, [the Authorized Participant must wire the cash amount described above] *in connection with a cash creation, the Authorized Participant must wire the cash amount* to the Cash Custodian, and the Bitcoin Trading Counterparty must deposit the required amount of bitcoin with the Bitcoin Custodian by

the end of the day E.T. on the Business Day following the Purchase Order Date. The bitcoin will be purchased from Bitcoin Trading Counterparties that are not acting as agents of the Trust or agents of the Authorized Participant. These transactions will be done on an arms-length basis, and there is no contractual relationship between the Trust, the Sponsor, or the Bitcoin Trading Counterparty to acquire such bitcoin. Prior to any movement of cash from the Cash Custodian to the Bitcoin Trading Counterparty or movement of Shares from the Transfer Agent to the Authorized Participant's DTC account to settle the transaction, the bitcoin must be deposited at the Bitcoin Custodian. The Bitcoin Trading Counterparty must deposit the required amount of bitcoin by end of day E.T. on the Business Day following the Purchase Order Date prior to any movement of cash from the Cash Custodian or Shares from the Transfer Agent. Upon receipt of the deposit amount of bitcoin at the Bitcoin Custodian from the Bitcoin Trading Counterparty, the Bitcoin Custodian will notify the Sponsor that the bitcoin has been received. The Sponsor will then notify the Transfer Agent that the bitcoin has been received, and the Transfer Agent will direct DTC to credit the number of Shares ordered to the Authorized Participant's DTC account and will wire the cash previously sent by the Authorized Participant to the Bitcoin Trading Counterparty to complete settlement of the Purchase Order and the acquisition of the bitcoin by the Trust, as described above.

In connection with in-kind creations, the Authorized Participant must submit a purchase order by an order cutoff time (the "In-Kind Order Cutoff Time") to create Baskets of Shares in exchange for bitcoin. The In-Kind Order Cutoff Time will initially be 3:59 pm ET on the Purchase Order Date.

On the settlement date for an in-kind creation, the Trust delivers Shares to the Authorized

Participant in exchange for bitcoin received from the Authorized Participant or its designated agent or client. The Authorized Participant or its designated agent or client will deposit such bitcoin with the Bitcoin Custodian. In the event the Authorized Participant has not deposited the bitcoin with the Bitcoin Custodian by the applicable time on the settlement date of the in-kind purchase order, the Authorized Participant will be given the option to (1) cancel the in-kind purchase order, (2) delay settlement of the purchase order to enable delivery of bitcoin at a later date, or (3) accept that the Trust will execute a bitcoin transaction required for the creation and the Authorized Participant and the Authorized Participant will deliver the U.S. dollars required for the purchase order.

As between the Trust and the Authorized Participant, the expense and risk of the difference between the value of bitcoin calculated by the Administrator for daily valuation using the CME US Reference Rate and the price at which the Trust acquires the bitcoin will be borne solely by the Authorized Participant to the extent that the Trust pays more for bitcoin than the price used by the Trust for daily valuation. [A]*In connection with cash creations, any such additional cash amount will be included in the amount of cash calculated by the Administrator on the Purchase Order Date, communicated to the Authorized Participant on the Purchase Order Date, and wired by the Authorized Participant to the Cash Custodian on the day following the Purchase Order Date. If the Bitcoin Trading Counterparty fails to deliver the bitcoin to the Bitcoin Custodian, no cash is sent from the Cash Custodian to the Bitcoin Trading Counterparty, no Shares are transferred to the Authorized Participant's DTC account, the cash is returned to the Authorized Participant, and the Purchase Order is cancelled.*

Under the Trust-Directed Trade Model and according to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Transfer Agent through the Marketing Agent to redeem one or more Creation Units. To be processed on the date submitted, redemption orders must be placed before 4 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, or earlier as determined by the Sponsor. A redemption order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent (“Redemption Order Date”). The redemption procedures allow Authorized Participants to redeem Creation Units and do not entitle an individual shareholder to redeem any Shares in an amount less than a Creation Unit, or to redeem Creation Units other than through an Authorized Participant. In connection with receipt of a redemption order accepted by the Marketing Agent and Transfer Agent, the Sponsor, on behalf of the Trust, is responsible for selling the bitcoin to an approved Bitcoin Trading Counterparty in an amount equal to the Basket Amount.

The redemption distribution from the Trust will consist of a transfer to the redeeming Authorized Participant, or its agent, of the amount of cash *or bitcoin* the Trust received in connection with a sale of the Basket Amount of bitcoin to a Bitcoin Trading Counterparty made pursuant to the redemption order. The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the redemption distribution amount relating to a Creation Unit applicable for such Business Day. The redemption distribution amount is derived by multiplying the Basket Amount by the value of bitcoin ascribed by the CME US Reference Rate. However, as between the

Trust and the Authorized Participant, the expense and risk of the difference between the value of bitcoin ascribed by the CME US Reference Rate and the price at which the Trust sells the bitcoin will be borne solely by the Authorized Participant to the extent that the Trust receives less for bitcoin than the value ascribed by CME US Reference Rate.

Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the redemption order.

In connection with cash redemptions, [T]he redemption distribution due from the Trust will be delivered by the Transfer Agent to the Authorized Participant once the Cash Custodian has received the cash from the Bitcoin Trading Counterparty. The Bitcoin Custodian will not send the Basket Amount of bitcoin to the Bitcoin Trading Counterparty until the Cash Custodian has received the cash from the Bitcoin Trading Counterparty and is instructed by the Sponsor to make such transfer. Once the Bitcoin Trading Counterparty has sent the cash to the Cash Custodian in an agreed upon amount to settle the agreed upon sale of the Basket Amount of bitcoin, the Transfer Agent will notify Sponsor. The Sponsor will then notify the Bitcoin Custodian to transfer the bitcoin to the Bitcoin Trading Counterparty, and the Transfer Agent will wire the redemption proceeds to the Authorized Participant once the Trust's DTC account has been credited with the Shares represented by the Creation Unit from the redeeming Authorized Participant. Once the Authorized Participant has delivered the Shares represented by the Creation Unit to be redeemed to the Trust's DTC account, the Cash Custodian will wire the requisite amount of cash to the Authorized Participant. If the Trust's DTC account has not been credited with all of the Shares of the Creation Unit to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms

receipt of all such Shares. If the Bitcoin Trading Counterparty fails to deliver the cash to the Cash Custodian, the transaction will be cancelled, and no transfer of bitcoin or Shares will occur.

In connection with in-kind redemptions, the Authorized Participant must submit an order by the In-Kind Order Cutoff Time to redeem Baskets of Shares in exchange for bitcoin.

On the settlement date for an in-kind redemption, the Trust delivers bitcoin to the Authorized Participant in exchange for Shares received from the Authorized Participant or its designated agent or client. The Authorized Participant or its designated agent or client will deposit such Shares to the Trust's DTC account.

In the event the Authorized Participant has not deposited the Shares to the Trust's DTC account by the applicable time on the settlement date of the in-kind redemption order, the Authorized Participant will be given the option to (1) cancel the in-kind redemption order, (2) delay settlement of the redemption order to enable delivery of Shares at a later date, or (3) accept that the Trust will execute a bitcoin transaction required for the redemption order and the Authorized Participant will be delivered the U.S. dollars required as calculated during the cash redemption process.

Acquiring and Selling Bitcoin Pursuant to Creation and Redemption of Shares Under the Agent Execution Model

Under the Agent Execution Model, Coinbase, Inc. ("Coinbase Inc." or the "Prime Execution Agent," an affiliate of the Bitcoin Custodian), acting in an agency capacity, would conduct bitcoin purchases and sales on behalf of the Trust with third parties through its Coinbase Prime service pursuant to the Prime Execution Agent Agreement. To utilize the Agent Execution Model, the Trust may maintain some bitcoin or cash in a trading account (the "Trading Balance") with the Prime Execution Agent. The Prime

Execution Agent Agreement provides that the Trust does not have an identifiable claim to any particular bitcoin (and cash); rather, the Trust's Trading Balance represents an entitlement to a pro rata share of the bitcoin (and cash) the Prime Execution Agent holds on behalf of customers who hold similar entitlements against the Prime Execution Agent. In this way, the Trust's Trading Balance represents an omnibus claim on the Prime Execution Agent's bitcoins (and cash) held on behalf of the Prime Execution Agent's customers.

To avoid having to pre-fund purchases or sales of bitcoin in connection with cash creations and redemptions and sales of bitcoin to pay Trust expenses not assumed by the Sponsor, to the extent applicable, the Trust may borrow bitcoin or cash as trade credit ("Trade Credit") from Coinbase Credit, Inc. (the "Trade Credit Lender") on a short-term basis pursuant to the Coinbase Credit Committed Trade Financing Agreement (the "Trade Financing Agreement").

For cash purchase orders, [O]n the day of the Purchase Order Date, the Trust would enter into a transaction to buy bitcoin through the Prime Execution Agent for cash.

Because the Trust's Trading Balance may not be funded with cash on the Purchase Order Date for the purchase of bitcoin in connection with the Purchase Order under the Agent Execution Model, the Trust may borrow Trade Credits in the form of cash from the Trade Credit Lender pursuant to the Trade Financing Agreement or may require the Authorized Participant to deliver the required cash for the Purchase Order on the Purchase Order Date. The extension of Trade Credits on the Purchase Order Date allows the Trust to purchase bitcoin through the Prime Execution Agent on the Purchase Order Date, with such bitcoin being deposited in the Trust's Trading Balance.

For cash purchase orders, [O]n the day following the Purchase Order Date (the “Purchase Order Settlement Date”), the Trust would deliver Shares to the Authorized Participant in exchange for cash received from the Authorized Participant. Where applicable, the Trust would use the cash to repay the Trade Credits borrowed from the Trade Credit Lender. On the Purchase Order Settlement Date for a Purchase Order utilizing the Agent Execution Model, the bitcoin associated with the Purchase Order and purchased on the Purchase Order Date is swept from the Trust’s Trading Balance with the Prime Execution Agent to the Trust Bitcoin Account with the Bitcoin Custodian pursuant to a regular end-of-day sweep process. Transfers of bitcoin into the Trust’s Trading Balance are off-chain transactions and transfers from the Trust’s Trading Balance to the Trust Bitcoin Account are “on-chain” transactions represented on the bitcoin blockchain. Any financing fee owed to the Trade Credit Lender is deemed part of trade execution costs and embedded in the trade price for each transaction.

For a *cash* Redemption Order utilizing the Agent Execution Model, on the day of the Redemption Order Date the Trust would enter into a transaction to sell bitcoin through the Prime Execution Agent for cash. The Trust’s Trading Balance with the Prime Execution Agent may not be funded with bitcoin on trade date for the sale of bitcoin in connection with the redemption order under the Agent Execution Model, when bitcoin remains in the Trust Bitcoin Account with the Bitcoin Custodian at the point of intended execution of a sale of bitcoin. In those circumstances the Trust may borrow Trade Credits in the form of bitcoin from the Trade Credit Lender, which allows the Trust to sell bitcoin through the Prime Execution Agent on the Redemption Order Date, and the cash proceeds are deposited in the Trust’s Trading Balance with the Prime Execution

Agent. On the business day following the Redemption Order Date (the “Redemption Order Settlement Date”) for a redemption order utilizing the Agent Execution Model where Trade Credits were utilized, the Trust delivers cash to the Authorized Participant in exchange for Shares received from the Authorized Participant. In the event Trade Credits were used, the Trust will use the bitcoin that is moved from the Trust Bitcoin Account with the Bitcoin Custodian to the Trading Balance with the Prime Execution Agent to repay the Trade Credits borrowed from the Trade Credit Lender.

For a *cash* redemption of Creation Units utilizing the Agent Execution Model, the Sponsor would instruct the Bitcoin Custodian to prepare to transfer the bitcoin associated with the redemption order from the Trust Bitcoin Account with the Bitcoin Custodian to the Trust’s Trading Balance with the Prime Execution Agent. On the Redemption Order Settlement Date, the Trust would enter into a transaction to sell bitcoin through the Prime Execution Agent for cash, and the Prime Execution Agent credits the Trust’s Trading Balance with the cash. On the same day, the Authorized Participant would deliver the necessary Shares to the Trust and the Trust delivers cash to the Authorized Participant.

Footnote 26: No change

Proposed Rule Change - ETH Trust

Similarly, the Exchange proposes to amend representations regarding the ETH Trust’s creation and redemption process as set forth in its previous rule filing to list and trade ETH Trust Shares to allow for in-kind transfers of the ETH Trust’s ether. The proposed in-kind transfer process will be an alternative to the ETH Trust’s current cash creation and redemption process.

In order to effectuate this change, the Exchange proposes certain changes to Amendment

No. 1 to the ETH Trust Shares filing as described below.⁷ Except for the changes described below, all other representations in Amendment No. 1 remain unchanged and will continue to constitute continued listing requirements. In addition, the Trust will continue to comply with the terms of Amendment No. 1 and the requirements in Rule 8.201-E.

Operation of the Trust

The Exchange proposes to amend the third paragraph in the section of Amendment No. 1 titled “Operation of the Trust” as follows (additions italicized):

The Trust’s only assets will be ether and cash.¹¹ The Trust does not seek to hold any non-ether crypto assets and has expressly disclaimed ownership of any such assets in the event the Trust ever involuntarily comes into possession of such assets.¹² The Trust will not use derivatives that may subject the Trust to counterparty and credit risks. The Trust will process creations and redemptions in cash or ether. The Trust’s only recurring ordinary expense is expected to be the Sponsor’s unitary management fee (the “Sponsor Fee”), which will accrue daily and will be payable in ether monthly in arrears. The Administrator will calculate the Sponsor Fee on a daily basis by applying an annualized rate to the Trust’s total ether holdings, and the amount of ether payable in respect of each daily accrual shall be determined by reference to the Pricing Index. Financial institutions authorized to create and redeem Shares (each, an “Authorized Participant”) will deliver, or cause to be delivered, cash *or ether* in exchange for Shares of the Trust, and the Trust will deliver cash to Authorized Participants when those Authorized Participants redeem Shares of the Trust.

⁷ See Securities Exchange Act Release No. 100213 (May 22, 2024), 89 FR 46533 (May 29, 2024) (SR-NYSEArca-2024-31) (Notice of Filing of Amendment No. 1 to a Proposed Rule Change To List and Trade Shares of the Bitwise Ethereum ETF).

Footnote 11: The Trust conducts creations and redemptions of its Shares for cash *or ether*. *In connection with cash creations*, Authorized Participants will deliver cash to the Cash Custodian pursuant to creation orders for Shares and the Cash Custodian will hold such cash until such time as it can be converted to ether, which the Trust intends to do on the same business day in which such cash is received by the Cash Custodian.

Additionally, the Trust will sell ether in exchange for cash pursuant to *cash* redemption orders of its Shares. In connection with such sales, an approved Ether Trading Counterparty (defined below) will send cash to the Cash Custodian. The Cash Custodian will hold such cash until it can be distributed to the redeeming Authorized Participant, which it intends to do on the same business in which it is received. In connection with the purchases and sales of ether pursuant to its creation and redemption activity, it is possible that the Trust may retain de minimis amounts of cash as a result of rounding differences. The Trust may also initially hold small amounts of cash to initiate Trust operations in the immediate aftermath of its Registration Statement being declared effective. Lastly, the Trust may also sell ether and temporarily hold cash as part of a liquidation of the Trust or to pay certain extraordinary expenses not assumed by the Sponsor. Under the Trust Agreement, the Sponsor has agreed to assume the normal operating expenses of the Trust, subject to certain limitations. For example, the Trust will bear any indemnification or litigation liabilities as extraordinary expenses. In any event, in the ongoing course of business, the amounts of cash retained by the Trust are not expected to constitute a material portion of the Trust's holdings. *In connection with in-kind creations*, Authorized Participants will submit orders by an order cutoff time to create "Baskets" of Shares in exchange for ether. On the settlement date for an in-kind

creation, the Trust delivers Shares to the Authorized Participant in exchange for ether received from the Authorized Participant or its designated agent or client. The Authorized Participant or its designated agent or client will deposit such ether with the Ether Custodian. In connection with in-kind redemptions, the Authorized Participants will submit orders by an order cutoff time to redeem Baskets of Shares in exchange for ether. On the settlement date for an in-kind redemption, the Trust delivers ether to the account of the Authorized Participant or its designated agent or client in exchange for Shares received from the Authorized Participant.

Footnote 12: No Change

Creation and Redemption of Shares

The Exchange proposes to amend the sections of Amendment No. 1 titled “Creation and Redemption of Shares” to integrate the proposed in-kind creation and redemption process, as follows (additions italicized, deletions bracketed):

The Trust creates and redeems Shares from time to time, but only in one or more Creation Units, which will initially consist of at least 10,000 Shares, but may be subject to change (“Creation Unit”). A Creation Unit is only made in exchange for delivery to the Trust or the distribution by the Trust of an amount of cash, equivalent to the value of ether represented by the Creation Unit being created or redeemed, the amount of which is representative of the combined NAV of the number of Shares included in the Creation Units being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem Creation Units is properly received. Except when aggregated in Creation Units or under extraordinary circumstances permitted under the Trust Agreement, the Shares are not redeemable securities.

Authorized Participants are the only persons that may place orders to create and redeem

Creation Units. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (2) Depository Trust Company (“DTC”) participants. To become an Authorized Participant, a person must enter into an Authorized Participant Agreement with the Trust and/or the Trust’s marketing agent (the “Marketing Agent”).

According to the Registration Statement, when purchasing or selling ether in response to the purchase of Creation Units or the redemption of Creation Units[, which will be processed in cash], the Trust would do so pursuant to either (1) a “Trust-Directed Trade Model,” or (2) an “Agent Execution Model,” which are each described in more detail below.

The Trust intends to utilize the Trust-Directed Trade Model for all purchases and sales of ether and would only utilize the Agent Execution Model in the event that no ether trading counterparty approved by the Sponsor (an “Ether Trading Counterparty”)¹⁵ is able to effectuate the Trust’s purchase or sale of ether. Under the Trust-Directed Trade Model, in connection with receipt of a purchase order or redemption order, the Sponsor, on behalf of the Trust, would be responsible for acquiring ether from an approved Ether Trading Counterparty in an amount equal to the Basket Amount. When seeking to purchase ether on behalf of the Trust, the Sponsor will seek to purchase ether at commercially reasonable price and terms from any of the approved Ether Trading Counterparties.¹⁶ Once agreed upon, the transaction will generally occur on an “over-the-counter” basis.

Footnote 15: No change.

Footnote 16: No change.

[Whether utilizing the Trust-Directed Trade Model or the Agent Execution Model, the Authorized Participants will deliver only cash to create shares and will receive only cash when redeeming Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive ether as part of the creation or redemption process or otherwise direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving ether as part of the creation or redemption process. Additionally, under either the Trust-Directed Trade Model or the Agent Execution Model, the Trust will create Shares by receiving ether from a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust -- not the Authorized Participant -- is responsible for selecting the third party to deliver the ether. The third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the ether to the Trust or acting at the direction of the Authorized Participant with respect to the delivery of the ether to the Trust. Additionally, the Trust will redeem Shares by delivering ether to a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust -- not the Authorized Participant -- is responsible for selecting the third party to receive the ether. Finally, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the ether from the Trust or acting at the direction of the Authorized Participant with respect to the receipt of the ether from the Trust.]

Acquiring and Selling Ether Pursuant to Creation and Redemption of Shares Under the Trust-Directed Trade Model

Under the Trust-Directed Trade Model and as set forth in the Registration Statement, on any business day, an Authorized Participant may create Shares by placing an order to

purchase one or more Creation Units with the Transfer Agent through the Marketing Agent. Such orders are subject to approval by the Marketing Agent and the Transfer Agent. For purposes of processing creation and redemption orders, a “business day” means any day other than a day when the Exchange is closed for regular trading (“Business Day”). To be processed on the date submitted, creation orders must be placed before 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, but may be required to be placed earlier at the discretion of the Sponsor. A purchase order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent (“Purchase Order Date”).

Creation Units are processed in cash *or ether*. By placing a purchase order, an Authorized Participant agrees to deposit, or cause to be deposited, an amount of cash *or ether* equal to the quantity of ether attributable to each Share of the Trust (net of accrued but unpaid expenses and liabilities) multiplied by the number of Shares (10,000) comprising a Creation Unit (the “Basket Amount”). The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the Basket Amount relating to a Creation Unit applicable for such Business Day. That amount is derived by multiplying the Basket Amount by the value of ether ascribed by the Pricing Index. However, the Authorized Participant is also responsible for any additional cash *or ether* required to account for the price at which the Trust agrees to purchase the requisite amount of ether from an Ether Trading Counterparty to the extent it is greater than the Pricing Index price on each Purchase Order Date.

Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the creation order.

Authorized Participants may not withdraw a creation request. If an Authorized Participant fails to consummate the foregoing, the order may be cancelled.

Following the acceptance of a purchase order, the Authorized Participant must wire the [cash amount] *Basket Amount* described above. *In connection with cash creations, the Authorized Participant must wire the cash amount* to the Cash Custodian, and the Ether Trading Counterparty must deposit the required amount of ether with the Ether Custodian by the end of the day E.T. on the Business Day following the Purchase Order Date. The ether will be purchased from Ether Trading Counterparties that are not acting as agents of the Trust or agents of the Authorized Participant. These transactions will be done on an arms-length basis, and there is no contractual relationship between the Trust, the Sponsor, or the Ether Trading Counterparty to acquire such ether. Prior to any movement of cash from the Cash Custodian to the Ether Trading Counterparty or movement of Shares from the Transfer Agent to the Authorized Participant's DTC account to settle the transaction, the ether must be deposited at the Ether Custodian.

The Ether Trading Counterparty must deposit the required amount of ether by end of day E.T. on the Business Day following the Purchase Order Date prior to any movement of cash from the Cash Custodian or Shares from the Transfer Agent. Upon receipt of the deposit amount of ether at the Ether Custodian from the Ether Trading Counterparty, the Ether Custodian will notify the Sponsor that the ether has been received. The Sponsor will then notify the Transfer Agent that the ether has been received, and the Transfer Agent will direct DTC to credit the number of Shares ordered to the Authorized Participant's DTC account and will wire the cash previously sent by the Authorized Participant to the Ether Trading Counterparty to complete settlement of the Purchase

Order and the acquisition of the ether by the Trust, as described above.

In connection with in-kind creations, the Authorized Participant must submit a purchase order by an order cutoff time (the “In-Kind Order Cutoff Time”) to create Baskets of Shares in exchange for ether. The In-Kind Order Cutoff Time will initially be 3:59 pm ET on the Purchase Order Date.

On the settlement date for an in-kind creation, the Trust delivers Shares to the Authorized Participant in exchange for ether received from the Authorized Participant or its designated agent or client. The Authorized Participant or its designated agent or client will deposit such ether with the Ether Custodian. In the event the Authorized Participant has not deposited the ether with the Ether Custodian by the applicable time on the settlement date of the in-kind purchase order, the Authorized Participant will be given the option to (1) cancel the in-kind purchase order, (2) delay settlement of the purchase order to enable delivery of ether at a later date, or (3) accept that the Trust will execute a ether transaction required for the creation and the Authorized Participant and the Authorized Participant will deliver the U.S. dollars required for the purchase order.

As between the Trust and the Authorized Participant, the expense and risk of the difference between the value of ether calculated by the Administrator for daily valuation using the Pricing Index and the price at which the Trust acquires the ether will be borne solely by the Authorized Participant to the extent that the Trust pays more for ether than the price used by the Trust for daily valuation. *In connection with cash creations, [A]ny such additional cash amount will be included in the amount of cash calculated by the Administrator on the Purchase Order Date, communicated to the Authorized Participant on the Purchase Order Date, and wired by the Authorized Participant to the Cash*

Custodian on the day following the Purchase Order Date. If the Ether Trading Counterparty fails to deliver the ether to the Ether Custodian, no cash is sent from the Cash Custodian to the Ether Trading Counterparty, no Shares are transferred to the Authorized Participant's DTC account, the cash is returned to the Authorized Participant, and the Purchase Order is cancelled.

Under the Trust-Directed Trade Model and according to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Transfer Agent through the Marketing Agent to redeem one or more Creation Units. To be processed on the date submitted, redemption orders must be placed before 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, or earlier as determined by the Sponsor. A redemption order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent ("Redemption Order Date"). The redemption procedures allow Authorized Participants to redeem Creation Units and do not entitle an individual shareholder to redeem any Shares in an amount less than a Creation Unit, or to redeem Creation Units other than through an Authorized Participant. In connection with receipt of a redemption order accepted by the Marketing Agent and Transfer Agent, the Sponsor, on behalf of the Trust, is responsible for selling the ether to an approved Ether Trading Counterparty in an amount equal to the Basket Amount.

The redemption distribution from the Trust will consist of a transfer to the redeeming Authorized Participant, or its agent, of the amount of cash *or ether* the Trust received in connection with a sale of the Basket Amount of ether to an Ether Trading Counterparty made pursuant to the redemption order. The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the redemption distribution amount relating to a Creation Unit applicable for such Business Day. The redemption distribution amount is derived by multiplying the Basket Amount by the value of ether ascribed by the Pricing Index. However, as between the Trust and the Authorized Participant, the expense and risk of the difference between the value of ether ascribed by the Pricing Index and the price at which the Trust sells the ether will be borne solely by the Authorized Participant to the extent that the Trust receives less for ether than the value ascribed by Pricing Index.

Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the redemption order.

In connection with cash redemptions, [T]he redemption distribution due from the Trust will be delivered by the Transfer Agent to the Authorized Participant once the Cash Custodian has received the cash from the Ether Trading Counterparty. The Ether Custodian will not send the Basket Amount of ether to the Ether Trading Counterparty until the Cash Custodian has received the cash from the Ether Trading Counterparty and is instructed by the Sponsor to make such transfer. Once the Ether Trading Counterparty has sent the cash to the Cash Custodian in an agreed upon amount to settle the agreed upon sale of the Basket Amount of ether, the Transfer Agent will notify Sponsor. The Sponsor will then notify the Ether Custodian to transfer the ether to the Ether Trading

Counterparty, and the Transfer Agent will wire the cash proceeds to the Authorized Participant once the Trust's DTC account has been credited with the Shares represented by the Creation Unit from the redeeming Authorized Participant. Once the Authorized Participant has delivered the Shares represented by the Creation Unit to be redeemed to the Trust's DTC account, the Cash Custodian will wire the requisite amount of cash to the Authorized Participant. If the Trust's DTC account has not been credited with all of the Shares of the Creation Unit to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms receipt of all such Shares. If the Ether Trading Counterparty fails to deliver the cash to the Cash Custodian, the transaction will be cancelled, and no transfer of ether or Shares will occur.

In connection with in-kind redemptions, the Authorized Participant must submit an order by the In-Kind Order Cutoff Time to redeem Baskets of Shares in exchange for ether. On the settlement date for an in-kind redemption, the Trust delivers ether to the Authorized Participant in exchange for Shares received from the Authorized Participant or its designated agent or client. The Authorized Participant or its designated agent or client will deposit such Shares to the Trust's DTC account.

In the event the Authorized Participant has not deposited the Shares to the Trust's DTC account by the applicable time on the settlement date of the in-kind redemption order, the Authorized Participant will be given the option to (1) cancel the in-kind redemption order, (2) delay settlement of the redemption order to enable delivery of Shares at a later date, or (3) accept that the Trust will execute a ether transaction required for the redemption order and the Authorized Participant will be delivered the U.S. dollars required as calculated during the cash redemption process.

Acquiring and Selling Ether Pursuant to Creation and Redemption of Shares Under the Agent Execution Model

Under the Agent Execution Model, the Prime Execution Agent, acting in an agency capacity, would conduct ether purchases and sales on behalf of the Trust with third parties through its Coinbase Prime service pursuant to the Prime Execution Agent Agreement. To utilize the Agent Execution Model, the Trust may maintain some ether or cash in the Trading Balance with the Prime Execution Agent. The Prime Execution Agent Agreement provides that the Trust does not have an identifiable claim to any particular ether (and cash); rather, the Trust's Trading Balance represents an entitlement to a pro rata share of the ether (and cash) the Prime Execution Agent holds on behalf of customers who hold similar entitlements against the Prime Execution Agent. In this way, the Trust's Trading Balance represents an omnibus claim on the Prime Execution Agent's ether (and cash) held on behalf of the Prime Execution Agent's customers.

To avoid having to pre-fund purchases or sales of ether in connection with cash creations and redemptions and sales of ether to pay Trust expenses not assumed by the Sponsor, to the extent applicable, the Trust may borrow ether or cash as trade credit ("Trade Credit") from Coinbase Credit, Inc. (the "Trade Credit Lender") on a short-term basis pursuant to the Coinbase Credit Committed Trade Financing Agreement (the "Trade Financing Agreement").

For cash purchase orders, [O]n the day of the Purchase Order Date, the Trust would enter into a transaction to buy ether through the Prime Execution Agent for cash.

Because the Trust's Trading Balance may not be funded with cash on the Purchase Order Date for the purchase of ether in connection with the Purchase Order under the Agent Execution Model, the Trust may borrow Trade Credits in the form of cash from the Trade

Credit Lender pursuant to the Trade Financing Agreement or may require the Authorized Participant to deliver the required cash for the Purchase Order on the Purchase Order Date. The extension of Trade Credits on the Purchase Order Date allows the Trust to purchase ether through the Prime Execution Agent on the Purchase Order Date, with such ether being deposited in the Trust's Trading Balance.

For cash purchase orders, [O]n the day following the Purchase Order Date (the "Purchase Order Settlement Date"), the Trust would deliver Shares to the Authorized Participant in exchange for cash received from the Authorized Participant. Where applicable, the Trust would use the cash to repay the Trade Credits borrowed from the Trade Credit Lender. On the Purchase Order Settlement Date for a Purchase Order utilizing the Agent Execution Model, the ether associated with the Purchase Order and purchased on the Purchase Order Date is swept from the Trust's Trading Balance with the Prime Execution Agent to the Trust Ether Account with the Ether Custodian pursuant to a regular end-of-day sweep process. Transfers of ether into the Trust's Trading Balance are off-chain transactions and transfers from the Trust's Trading Balance to the Trust Ether Account are "on-chain" transactions represented on the ether blockchain. Any financing fee owed to the Trade Credit Lender is deemed part of trade execution costs and embedded in the trade price for each transaction.

For a *cash* Redemption Order utilizing the Agent Execution Model, on the day of the Redemption Order Date the Trust would enter into a transaction to sell ether through the Prime Execution Agent for cash. The Trust's Trading Balance with the Prime Execution Agent may not be funded with ether on trade date for the sale of ether in connection with the redemption order under the Agent Execution Model, when ether remains in the Trust

Ether Account with the Ether Custodian at the point of intended execution of a sale of ether. In those circumstances the Trust may borrow Trade Credits in the form of ether from the Trade Credit Lender, which allows the Trust to sell ether through the Prime Execution Agent on the Redemption Order Date, and the cash proceeds are deposited in the Trust's Trading Balance with the Prime Execution Agent. On the business day following the Redemption Order Date (the "Redemption Order Settlement Date") for a redemption order utilizing the Agent Execution Model where Trade Credits were utilized, the Trust delivers cash to the Authorized Participant in exchange for Shares received from the Authorized Participant. In the event Trade Credits were used, the Trust will use the ether that is moved from the Trust Ether Account with the Ether Custodian to the Trading Balance with the Prime Execution Agent to repay the Trade Credits borrowed from the Trade Credit Lender.

For a *cash* redemption of Creation Units utilizing the Agent Execution Model, the Sponsor would instruct the Ether Custodian to prepare to transfer the ether associated with the redemption order from the Trust Ether Account with the Ether Custodian to the Trust's Trading Balance with the Prime Execution Agent. On the Redemption Order Settlement Date, the Trust would enter into a transaction to sell ether through the Prime Execution Agent for cash, and the Prime Execution Agent credits the Trust's Trading Balance with the cash. On the same day, the Authorized Participant would deliver the necessary Shares to the Trust and the Trust delivers cash to the Authorized Participant.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

Section 6(b)⁸ of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to 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.

The Exchange believes the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would update representations in both the Amendment No. 2 to the Bitcoin Trust Shares filing and Amendment No. 1 to the ETH Trust Shares filing such that the respective Trusts would both be able to engage in in-kind transactions with Authorized Participants, as described above. This ability would make the Trusts (and the market more generally) operate more efficiently because Authorized Participants would be able to source bitcoin or ether, as applicable, rather than provide cash to the applicable Trust and/or to receive bitcoin or ether, as applicable, directly from the Trusts. In-kind creations and redemptions would allow Authorized Participants to be responsible for buying and selling the applicable crypto asset rather than the Trusts, which would potentially lessen the impact on the market of the Trusts on both sides of the transaction by allowing the Authorized Participants to decide how and where to source the underlying crypto asset for creations and deciding how, where, and whether to sell the underlying crypto asset for redemptions. This would improve the creation and redemption

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(5).

process for both Authorized Participants and the Trusts, increase efficiency, and ultimately benefit the end investors in the Trusts.

As noted above, except for the addition of in-kind creation and redemption for the Bitcoin Trust, all other representations made in the Amendment No. 2 to the Bitcoin Trust Shares filing remain unchanged and will continue to constitute continuing listing requirements for the Bitcoin Trust. Similarly, except for the addition of in-kind creation and redemption for the ETH Trust, all other representations made in Amendment No. 1 to the ETH Trust Shares filing remain unchanged and will continue to constitute continuing listing requirements for the ETH Trust.

Accordingly, the Exchange believes that this proposed rule change raises no novel regulatory issues.

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 that is not necessary or appropriate in furtherance of the purpose of the Act. As discussed above, the proposed amendments are intended to reflect changes to the Trusts' creation and redemption processes, specifically to allow for in-kind transfers.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change, as Modified by Amendment No.1, 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 self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the 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, as modified by Amendment No.1, 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. Please include file number SR-NYSEARCA-2025-38 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-NYSEARCA-2025-38. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F

Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also 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-NYSEARCA-2025-38 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.¹⁰

Sherry R. Haywood,

Assistant Secretary.

¹⁰ 17 CFR 200.30-3(a)(12).