

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-PHLX-2025-19. 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-PHLX-2025-19 and should be submitted on or before May 8, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102837; File No. SR-BOX-2025-10]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Proposed Rule Change To Amend BOX Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) To Permit the Listing and Trading of Options on the Fidelity Ethereum Fund

April 11, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 10, 2025, BOX Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) to permit the listing and trading of options on the Fidelity Ethereum Fund. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <https://rules.boxexchange.com/rulefilings>.

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

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Exchange proposes to amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) to allow the Exchange to list and trade options on the Fidelity Ethereum Fund (the "Fidelity Fund").<sup>3</sup> Additionally, the Exchange proposes to amend Rule 5055 (FLEX Equity Options). This is a competitive filing that is based on a proposal recently submitted by Cboe Exchange, Inc. ("CBOE") and approved by the Commission.<sup>4</sup>

As discussed herein and as provided in the CBOE Approval Order, the Exchange believes options on the Fidelity Fund would permit increased hedging strategies and cost efficiency, with respect to the underlying Funds. Further, permitting the listing of such options would enhance the transparency and efficiency of markets in these and correlated products. Current Rule 5020(h) provides that subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Exchange-Traded Fund Shares ("ETFs"), that represent certain types of interests<sup>5</sup> and exchange-traded products

<sup>3</sup> See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2023-70; SR-NYSEArca-2024-31; SR-NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023-087; SR-CboeBZX-2023-095; and SR-CboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) ("Ethereum ETP Approval Order").

<sup>4</sup> See Securities Exchange Act Release No. 102797 (April 9, 2025) (Order Approving SR-CBOE-2025-036, as modified by Amendment No. 1) ("CBOE Approval Order").

<sup>5</sup> See Rule 5020(h) which provides that 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 (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments") and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more

Continued

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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

(“ETPs”) structured as trusts that hold precious metals (which are deemed commodities).<sup>6</sup> Like ETPs backed by precious metals (*i.e.*, commodities), the Exchange proposes to allow options trading on the Fidelity Fund that hold Ethereum—which is also deemed a commodity.<sup>7</sup>

The Fidelity Fund is an Ethereum-backed commodity ETF structured as a trust. Similar to any shares currently deemed appropriate for options trading under Rule 5020(h), the investment objective of the Fidelity Fund is for its shares to reflect the performance of Ethereum (less the expenses of the trust’s operations), offering investors an opportunity to gain exposure to Ethereum without the complexities of Ethereum delivery. As is the case for shares currently deemed appropriate for options trading, the Fidelity Fund’s shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of Ethereum and are designed to track Ethereum or the performance of the price of Ethereum and offer access to the Ethereum market.<sup>8</sup> The Fidelity Fund provides investors with cost-efficient alternatives that allow a level of participation in the Ethereum market through the securities market. The primary substantive difference between the Fidelity Fund and Exchange-Traded Fund Shares currently deemed appropriate for options trading are that Exchange-Traded Fund Shares may hold securities, certain financial instruments, specified precious metals (which are deemed commodities), and Bitcoin (which is also deemed a commodity), while the Fidelity Fund holds Ethereum (which is also deemed a commodity).

The Exchange believes the Fidelity Fund satisfies the Exchange’s initial listing standards for Exchange-Traded

Fund Shares on which the Exchange may list options. Specifically, the Fidelity Fund satisfies the initial listing standards set forth in Rule 5020(h)(1) and (2), as is the case for other shares on which the Exchange lists options (including trusts that hold commodities). Rule 5020(h)(1) requires that shares must either (i) meet the criteria and guidelines set forth in paragraphs (a) and (b) of Rule 5020; or (ii) the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them 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 of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares’ prospectus. The Fidelity Fund satisfies Rule 5020(h)(2), as it is subject to this creation and redemption process.

While not required by the Rules for purposes of options listings, the Exchange believes the Fidelity Fund satisfies the criteria and guidelines set forth in Rule 5020(b). Pursuant to Rule 5020(a), 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 Securities Exchange Act of 1934, as amended (the “Act”)), and

be characterized by a substantial number of outstanding shares that are widely held and actively traded.<sup>9</sup> The Fidelity Fund is an NMS Stock as defined in Rule 600 of Regulation NMS under the Act.<sup>10</sup> As provided in the CBOE Approval Order, the Fidelity Fund is characterized by a substantial number of outstanding shares that are widely held and actively traded.

Specifically, as shown in the CBOE Approval Order, as of December 23, 2024, the Fidelity Fund had 41,700,000 shares outstanding, which is nearly six times more than the minimum number of shares of a corporate stock (*i.e.*, 7,000,000 shares) that the Exchange generally requires to list options on that stock pursuant to Rule 5020(b)(1). The Exchange believes this demonstrates that the Fidelity Fund is characterized by a substantial number of outstanding shares.

Further, as provided in the CBOE Approval Order, as of November 26, 2024, there were 38,170 beneficial holders of shares of the Fidelity Fund, which is significantly more than 2,000 beneficial holders (approximately 19 times more), which is the minimum number of holders the Exchange generally requires for corporate stock in order to list options on that stock pursuant to Rule 5020(b)(2). Therefore, the Exchange believes the shares of the Fidelity Fund are widely held.

The Exchange also believes the shares of the Fidelity Fund are actively traded. As provided in the CBOE Approval Order, as of December 23, 2024, the total trading volume (by shares) and the approximate average daily volume (“ADV”) (in shares and notional) from July 23, 2024 (the date on which shares of the Fidelity Fund began trading) to December 23, 2024 for the Fidelity Fund was as follows:

Trading volume (shares)	ADV (shares)	ADV (notional \$)
115,589,047 .....	1,070,269	33,864,193

other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust (“Currency Trust Shares”); or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on

commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (“Commodity Pool ETFs”) or (iv) represent interests in the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the abrdn Gold ETF Trust, the abrdn Silver ETF Trust, the abrdn Palladium ETF Trust, the abrdn Platinum ETF Trust, the Sprott Physical Gold Trust, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, the Bitwise Bitcoin ETF, the Fidelity Wise Origin Bitcoin Fund, or the ARK 21Shares Bitcoin ETF; provided that all conditions in Rules 5020(h)(1) and (2) are met.

<sup>6</sup> See Rule 5020(h) (permitting the listing and trading of options on certain ETPs backed by precious metals).

<sup>7</sup> See proposed Rule 5020(h).

<sup>8</sup> The trust may include minimal cash.

<sup>9</sup> The criteria and guidelines for a security to be considered widely held and actively traded are set forth in Rule 5020(b), subject to exceptions.

<sup>10</sup> An “NMS stock” means any NMS security other than an option, and an “NMS security” means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan (or an effective national market system plan for reporting transaction in listed options). See 17 CFR 242.600(b)(64) (definition of “NMS security”) and (65) (definition of “NMS stock”).

As demonstrated above, despite the fact that the Fidelity Fund has been trading for approximately five months as of December 23, 2024, its total trading volume as of that date was substantially higher than 2,400,000 shares (more than 48 times that amount), which is the minimum 12-month volume the Exchange generally requires for a corporate stock in order to list options on that security as set forth in Rule 5020(b)(4). Additionally, as of December 23, 2024, the trading volume for the Fidelity Fund was in the top 5% of all ETFs that are currently trading. The Exchange believes this data demonstrates the Fidelity Fund is characterized as having shares that are actively traded.

Options on the Fidelity Fund will be subject to the Exchange's continued listing standards set forth in Rule 5030(h) for ETFs and ETPs deemed appropriate for options trading pursuant to Rule 5020(h). Specifically, 5030(h) provides that funds that were initially approved for options trading pursuant to Rule 5020(h) shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that fund, if the fund ceases to be an NMS stock or if the fund is halted from trading in their primary market. In addition, options on funds may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering funds approved for trading under Rule 5020(h)(1)(i), in accordance with the terms of subparagraphs (b)(1),(2),(3) and (6) of Rule 5030; (2) in the case of options covering funds approved for trading under Rule 5020(h)(1)(ii) (as is the case for the Fidelity Fund), following the initial twelve-month period beginning upon the commencement of trading in the fund on a national securities exchange and are defined as an NMS stock, there are fewer than 50 record and/or beneficial holders of such fund for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market

instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on the Fidelity Fund will be physically settled contracts with American-style exercise.<sup>11</sup> Consistent with current Rule 5050, which governs the opening of options series on a specific underlying security (including ETFs and ETPs), the Exchange will open at least one expiration month for options on the Fidelity Fund<sup>12</sup> at the commencement of trading on the Exchange and may also list series of options on the Fidelity Fund for trading on a weekly,<sup>13</sup> monthly,<sup>14</sup> or quarterly<sup>15</sup> basis. The Exchange may also list long-term equity option series ("LEAPS") that expire from 12 to 180 months from the time they are listed.<sup>16</sup>

Pursuant to IM-5050-1(b), which governs strike prices of series of options

<sup>11</sup> See Rule 5010 (Rights and Obligations of Holders and Writers), which provides that the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation. See also OCC Rules, Chapter VIII, which governs exercise and assignment, and Chapter IX, which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts. OCC Rules can be located at: <https://www.theocc.com/getmedia/9d3854cd-b782-450f-bc77-33169b0576ce/occrules.pdf>.

<sup>12</sup> See Rule 5050(b). The standard expirations are subject to certain listing criteria for underlying securities described within Rule 5020. Standard 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 5050(c), 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>13</sup> See IM-5050-6.

<sup>14</sup> See IM-5050-13.

<sup>15</sup> See IM-5050-4.

<sup>16</sup> See Rule 5070.

on ETFs, the interval of strikes prices for series of options on the Fidelity Fund 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>17</sup> Additionally, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>18</sup> the \$0.50 Strike Program,<sup>19</sup> the \$2.50 Strike Price Program,<sup>20</sup> and the \$5 Strike Program.<sup>21</sup> Pursuant to Rule 7050, where the price of a series of a Fidelity Fund option 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>22</sup> Any and all new series of Fidelity Fund options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 5050 and 7050, as applicable.

The Exchange also proposes to amend IM-3120-2 to provide a position limit of 25,000 same side option contracts for the Fidelity Fund option. Further, Rule 3140 provides that the exercise limits shall be determined in the manner described in Rule 3120, therefore the exercise limits would also be 25,000 contracts.

As provided in the CBOE Approval Order, these proposed position and exercise limits were determined considering, among other things, the ADV (since trading of the Fidelity Fund began on July 23, 2024) and outstanding shares of the Fidelity Fund (which as discussed above demonstrate that the Fidelity Fund is widely held and actively traded and thus justify these conservatively proposed position limits), as set forth below, along with market capitalization (as of December 23, 2024):

<sup>17</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, IM-5050-6, IM-5050-13, and IM-5050-4, specifically set forth intervals between strike prices on Quarterly Options Series, Short Term Option Series, and Monthly Options Series, respectively.

<sup>18</sup> See IM-5050-2.

<sup>19</sup> See IM-5050-5.

<sup>20</sup> See IM-5050-3.

<sup>21</sup> See Rule 5050(d)(5).

<sup>22</sup> If options on the Fidelity Fund are eligible to participate in the Penny Interval Program, the minimum increment of \$0.01 below \$3.00 and \$0.05 above \$3.00 would apply. See Rule 7050(a)(3). See also Rule 7260 (which describes the requirements for the Penny Interval Program).

ADV (shares)	Outstanding shares	Market capitalization (\$)
1,070,269 .....	41,700,000	1,433,229,000

As provided in the CBOE Approval Order, the number of outstanding shares of the Fidelity Fund were compared to those of other ETFs. The approximate average position (and exercise limit) of ETF options with similar outstanding shares (as of December 31, 2024) was approximately 102,703 contracts, which is significantly higher (approximately 4 times) than the proposed position and exercise limit of 25,000 contracts for Fidelity Fund options.<sup>23</sup> As discussed above, shares of the Fidelity Fund are actively held and widely traded: (1) the Fidelity Fund (as of December 23, 2024) had significantly more than 7,000,000 shares outstanding, which is the minimum number of shares of a corporate stock that the Exchange generally requires to list options on that stock pursuant to Rule 5020(b)(1); (2) the Fidelity Fund (as of November 26, 2024) had significantly more than 2,000 beneficial holders, which is the minimum number of holders the Exchange generally requires for

corporate stock in order to list options on that stock pursuant to Rule 5020(b)(2); and (3) the Fidelity Fund had a trading volume in the approximately five-month time period since it began trading substantially higher than 2,400,000 shares, which is the minimum 12-month volume the Exchange generally requires for a security in order to list options on that security as set forth in Rule 5020(b)(4).

As provided in the CBOE Approval Order, if a market participant held the maximum number of positions possible pursuant to the proposed position and exercise limits, the equivalent shares represented by the proposed position/exercise limit would represent approximately 6.0% of the 41,700,000 current outstanding shares of the Fidelity Fund. Therefore, if a market participant held the maximum permissible options positions in Fidelity Fund options and exercised all of them at the same time, that market participant

would control a small percentage of the outstanding shares of the Fidelity Fund.

Rule 3120(d) provides two methods of qualifying for a position limit tier above 25,000 option contracts. The first method is based on six-month trading volume in the underlying security, and the second method is based on slightly lower six-month trading volume and number of shares outstanding in the underlying security. An underlying stock or ETF that qualifies for method two based on trading volume and number of shares outstanding would be required to have the minimum number of outstanding shares as shown in middle column of the table below.

The table which provides the equivalent shares of the position limits applicable to equity options, including ETFs, further represents the percentages of the minimum number of outstanding shares that an underlying stock or ETF must have to qualify for that position limit (under the second method described above).

Position/exercise limit (in equivalent shares)	Minimum outstanding shares	Percentage of outstanding shares
2,500,000 .....	6,300,000	40.0
5,000,000 .....	40,000,000	12.5
7,500,000 .....	120,000,000	6.3
20,000,000 .....	240,000,000	8.3
25,000,000 .....	300,000,000	8.3

The equivalent shares represented by the proposed position and exercise limits for the Fidelity Fund as a percentage of outstanding shares of the Fidelity Fund is significantly lower than the percentage for the lowest possible position limit for equity options of 25,000, which is the position limit the Exchange is proposing for Fidelity Fund options.<sup>24</sup>

Further, the proposed position and exercise limits for Fidelity Fund options are equal to the lowest position and exercise limits available in the options

industry for equity options, are extremely conservative and more than appropriate given the market capitalization, average daily volume, and high number of outstanding shares of the Fidelity Fund. The proposed position and exercise limit for the Fidelity Fund is also equal to the position and exercise limits for ETFs that hold Bitcoin, as recently approved by the Commission.<sup>25</sup>

All of the above information demonstrates that the proposed position and exercise limits for Fidelity Fund

options are more than reasonable and appropriate. The trading volume, ADV, and outstanding shares of the Fidelity Fund demonstrate that its shares are actively traded and widely held, and proposed position and exercise limits are well below those of options on other ETFs with similar market characteristics. The proposed position and exercise limits would be the lowest position and exercise limit available for equity options in the industry, are extremely conservative, and are more than appropriate given the Fidelity

<sup>23</sup> The position limits for those ETF options for which the underlying ETFs had similar outstanding shares were all 50,000 or above, and nearly half of them had position limits of 200,000 or 250,000 contracts.

<sup>24</sup> As these percentages are based on the minimum number of outstanding shares an underlying security must have to qualify for the applicable position limit, these are the highest possible percentages that would apply to any option subject to that position and exercise limit. 6,300,000

is the minimum number of outstanding shares an underlying security must have for the Exchange to continue to list options on that security, so this would be the smallest number of outstanding shares permissible for any corporate option that would have a position limit of 25,000 contract. See IM-5050-2. This rule applies to corporate stock options but not ETF options, which currently have no requirement regarding outstanding shares of the underlying ETF for the Exchange to continue listing options on that ETF. Therefore, there may be ETF

options trading for which the 25,000 contract position limit represents an even larger percentage of outstanding shares of the underlying ETF than set forth above.

<sup>25</sup> See Securities Exchange Act Release No. 101773 (November 27, 2024), 89 FR 95834 (December 3, 2024) (SR-BOX-2024-29) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) to Permit Options Trading on Bitcoin Funds).

Fund's market capitalization, ADV, and high number of outstanding shares.

Rule 5055 currently permits the Exchange to authorize for trading a FLEX option class on any equity security if it may authorize for trading a non-FLEX option class on that equity security pursuant to Rule 5020. The proposed rule change amends Rule 5055 to exclude the Fidelity Fund from this provision.

Fidelity Fund options will trade in the same manner as any other fund options on BOX. The Exchange Rules that currently apply to the listing and trading of all ETF or ETP options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Fidelity Fund options on the Exchange in the same manner as they apply to other options on all other ETFs or ETPs that are listed and traded on the Exchange, including the precious-metal backed commodity funds already deemed appropriate for options trading on the Exchange pursuant to current Rule 5050(h).

Today, the Exchange has an adequate surveillance program in place for options. The Exchange intends to apply those same program procedures to options on the Fidelity Fund that it applies to the Exchange's other options products.<sup>26</sup> Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement. The Exchange would be able to obtain information regarding trading in shares of the Fidelity Fund from Cboe BZX Exchange, Inc. ("BZX") and other markets that trade shares of the Fidelity Fund through ISG. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. In addition, the Exchange has a Regulatory Services Agreement with the Financial Industry Regulatory Authority ("FINRA") for certain market surveillance, investigation and examinations functions. Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate amongst themselves and FINRA responsibilities to conduct certain options-related market surveillance that are common to rules of all options exchanges.<sup>27</sup>

<sup>26</sup> The surveillance program includes surveillance patterns for price and volume movements as well as patterns for potential manipulation (e.g., spoofing and marking the close).

<sup>27</sup> Section 19(g)(1) of the Act, among other things, requires every self-regulatory organization ("SRO")

The underlying shares of spot Ethereum ETPs, including the Fidelity Fund, are also subject to safeguards related to addressing market abuse and manipulation. As the Commission stated in its order approving proposals of several exchanges to list and trade shares of spot Ethereum-based ETPs, "[e]ach Exchange has a comprehensive surveillance sharing agreement with the Chicago Mercantile Exchange ("CME") via their common membership in the Intermarket Surveillance Group. This facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the CME ether futures market."<sup>28</sup> Given the consistently high correlation between the CME Ethereum futures market and the spot Ethereum market, as confirmed by the Commission through robust correlation analysis, the Commission was able to conclude that such surveillance sharing agreements could reasonably be "expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Ethereum ETPs]."<sup>29</sup> In light of surveillance measures related to both options and futures as well as the Fidelity Fund,<sup>30</sup> the Exchange believes that existing surveillance procedures are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading the proposed options on the Fidelity Fund. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on the Fidelity Fund.

The Exchange has also analyzed its capacity and represents that it believes

registered as a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO ("common members"). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

<sup>28</sup> See Ethereum ETP Approval Order, 89 FR at 46938.

<sup>29</sup> See Ethereum ETP Approval Order, 89 FR at 46939.

<sup>30</sup> See Amendment No. 2 to SR-CboeBZX-2023-095, Proposed Rule Change To List and Trade Shares of the Fidelity Ethereum Fund Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (filed May 21, 2024); See also Ethereum ETP Approval Order.

the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on the Fidelity Fund up to the number of expirations currently permissible under the Rules. Because the proposal is limited to one class, the Exchange believes any additional traffic that may be generated from the introduction of Fidelity Fund options will be manageable.

The Exchange believes that offering options on the Fidelity Fund will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of Ethereum and hedging vehicle to meet their investment needs in connection with Ethereum-related products and positions. The Exchange expects investors will transact in options on the Fidelity Fund in the unregulated over-the-counter ("OTC") options market,<sup>31</sup> but may prefer to trade such options in a listed environment to receive the benefits of trading listed options, including (1) enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Fidelity Fund options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The ETFs that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as the Fidelity Fund and essentially offer the same objectives and 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.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the

<sup>31</sup> The Exchange understands from customers that investors have historically transacted in options on ETFs in the OTC options market if such options were not available for trading in a listed environment.

“Act”),<sup>32</sup> in general, and Section 6(b)(5) of the Act,<sup>33</sup> in particular, in that it is 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 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>34</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on the Fidelity Fund will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the Fidelity Fund will provide investors with an opportunity to realize the benefits of utilizing options on the Fidelity Fund, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Fidelity Fund options 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 Ethereum and with Ethereum-related products and positions. Additionally, the Exchange’s offering of Fidelity Fund options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on BOX through increased order flow to the benefit of all investors. The Exchange also notes that it already lists (or has the authority to list) options on other commodity-based ETPs,<sup>35</sup> which, as described above, are trusts structured in substantially the same manner as the Fidelity Fund and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (*i.e.*, Ethereum rather than Bitcoin or precious metals) and for which the Exchange has not identified any issues with the continued listing

and trading of commodity-backed ETP options it currently lists for trading.

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 the Fidelity Fund satisfy the initial listing standards and continued listing standards currently in the Exchange Rules applicable to options on all ETFs and ETPs, including ETPs that hold other commodities already deemed appropriate for options trading on BOX. Additionally, as demonstrated above, the Fidelity Fund is characterized by a substantial number of shares that are widely held and actively traded. Fidelity Fund options will trade in the same manner as any other ETF or ETP options—the same Exchange Rules that currently govern the listing and trading of all ETF options, including permissible expirations, strike prices and minimum increments, and applicable margin requirements, will govern the listing and trading of options on the Fidelity Fund in the same manner.

The proposed position and exercise limits are designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade, as they are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. The proposed position and exercise limits for Fidelity Fund options are 25,000 contracts, which is currently the lowest limit applicable to any equity options (including ETF options) and the position and exercise limits that apply to comparable ETFs that hold Bitcoin.<sup>36</sup> The proposed position and exercise limits are extremely conservative for Fidelity Fund options given the trading volume and outstanding shares for the Fidelity Fund. The CBOE Approval Order demonstrates that the average position and exercise limits of options on ETFs with comparable outstanding shares and trading volume to those of the Fidelity Fund are significantly higher than the proposed position and exercise limits for Fidelity Fund options. Therefore, the proposed position and exercise limits for Fidelity Fund options are conservative relative to options on ETFs with comparable market characteristics.

The Exchange believes the proposed rule change to exclude the Fidelity Fund from being eligible for trading as FLEX options is consistent with the Act, because it will permit the Exchange to continue to participate in ongoing discussions with the Commission regarding appropriate position limits for ETF options.<sup>37</sup>

The Exchange represents that it has the necessary systems capacity to support the new Fidelity Fund options. As discussed above, 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 ETF options, including Fidelity Fund options. The Exchange notes that the proposed rule change is substantively the same as a rule change proposed by CBOE which the Commission recently approved.<sup>38</sup>

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by CBOE that was recently approved by the Commission.<sup>39</sup>

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as options on the Fidelity Fund will be equally available to all market participants who wish to trade such options and will trade generally in the same manner as other options. The Exchange Rules that currently apply to the listing and trading of all ETF or ETP options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Fidelity Fund options on the Exchange in the same manner as they apply to other options on all other ETFs or ETPs that are listed and traded on BOX. Also, and as stated above, the Commission has approved the trading of options on other

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

<sup>33</sup> 15 U.S.C. 78f(b)(5).

<sup>34</sup> *Id.*

<sup>35</sup> See Rule 5020(h).

<sup>36</sup> See IM-3120-2.

<sup>37</sup> The Exchange may submit a separate rule filing that would permit the Exchange to authorize for trading FLEX options on the Fidelity Fund (which filing may propose changes to existing FLEX option position limits for such options if appropriate).

<sup>38</sup> See *supra*, note 4.

<sup>39</sup> *Id.*

commodity-based ETFs and ETPs.<sup>40</sup> Further, the Fidelity Fund would need to satisfy the maintenance listing standards set forth in the Exchange Rules in the same manner as any other ETF or ETP for the Exchange to continue listing options on them.

The Exchange does not believe that the proposal to list and trade options on the Fidelity Fund will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Fidelity Fund options trading on BOX may make BOX a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on the Fidelity Fund. The Exchange notes that listing and trading Fidelity Fund options on BOX 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 BOX in a manner that is beneficial to investors by providing them with a lower cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Fidelity Fund options for trading on BOX will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with Ethereum prices and Ethereum-related products and positions on a listed options exchange.

The proposed rule change to exclude options on the Fidelity Fund from being eligible for trading as FLEX Equity Options does not impose an undue burden on intermarket competition because discussions with the Commission regarding appropriate position limits for ETF options are

ongoing. Finally, the proposed rule change to exclude options on the Fidelity Fund from being eligible for trading as FLEX Equity Options does not impose an undue burden on intramarket competition because BOX Participants will not be allowed to transact a FLEX Equity Option on the Fidelity Fund.

*C. 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 comments on the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>41</sup> and Rule 19b-4(f)(6) thereunder.<sup>42</sup> Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>43</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>44</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>45</sup> under the Act does not normally become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>46</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become

operative immediately upon filing. The Commission previously approved the listing and trading of options on the Fidelity Fund.<sup>47</sup> The Exchange has provided information regarding the underlying Fidelity Fund, including, among other things, information regarding trading volume, the number of beneficial holders, and the market capitalization of the Fidelity Fund. The proposal also establishes position and exercise limits for options on the Fidelity Fund and provides information regarding the surveillance procedures that will apply to Fidelity Fund options. The Commission believes that waiver of the operative delay could benefit investors by providing an additional venue for trading Fidelity Fund options. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>48</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>47</sup> See Securities Exchange Act Release No. 102797 (April 9, 2025) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Permit the Listing and Trading of Options on Shares of the Fidelity Ethereum Fund) (SR-CBOE-2024-036).

<sup>48</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>40</sup> See Rule 5020(h).

<sup>41</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>42</sup> 17 CFR 240.19b-4(f)(6).

<sup>43</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>44</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>45</sup> 17 CFR 240.19b-4(f)(6).

<sup>46</sup> 17 CFR 240.19b-4(f)(6)(iii).

*Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-BOX-2025-10 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-BOX-2025-10. 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-BOX-2025-10 and should be submitted on or before May 8, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>49</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**Release No. 34-102838; File No. SR-CBOE-2025-026]**

**Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rules To List and Trade Options on the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, and the Bitwise Ethereum ETF**

April 11, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 10, 2025, Cboe Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rules 4.3, 4.20, and 8.30, to allow the Exchange to list and trade options on the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, and the Bitwise Ethereum ETF. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, 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**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Rule 4.3 regarding the criteria for underlying securities. Specifically, the Exchange proposes to amend Rule 4.3, Interpretation and Policy .06(a)(4) to allow the Exchange to list and trade options on Units<sup>5</sup> that represent interests in: the Grayscale Ethereum Trust ETF (the "Grayscale Fund"), the Grayscale Ethereum Mini Trust ETF (the "Grayscale Mini Fund"), and the Bitwise Ethereum ETF (the "Bitwise Fund" and, collectively, the "Ethereum Funds"),<sup>6</sup> designating them as "Units" deemed appropriate for options trading on the Exchange. This is a competitive filing based on a similar proposal submitted by NYSE American, LLC ("NYSE American"), which was recently approved by the Securities and Exchange Commission (the "Commission").<sup>7</sup> Current Rule 4.3, Interpretation and Policy .06 provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Units that represent certain types of interests,<sup>8</sup> including interests in certain

<sup>5</sup> Rule 1.1 defines a "Unit" (which may also be referred to as an ETF) as a share or other security traded on a national securities exchange and defined as an NMS stock as set forth in Rule 4.3.

<sup>6</sup> See Securities Exchange Act Release Nos. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2023-70; SR-NYSEArca-2024-31; SR-NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023-087; SR-CboeBZX-2023-095; and SR-CboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) ("Ethereum ETP Approval Order"); and 100541 (July 17, 2024), 89 FR 59786 (July 23, 2024) (SR-NYSEArca-2024-44; and SR-NYSEArca-2024-53) (Order Granting Approval of Proposed Rule Changes To List and Trade Shares of the Grayscale Ethereum Mini Trust and ProShares Ethereum ETF).

<sup>7</sup> See Securities Exchange Act Release Nos. 99306 (August 7, 2024), 89 FR 65957 (August 13, 2024) (SR-NYSEAMER-2024-45), as amended; and Securities Exchange Act Release No. 102799 ("NYSE American Approval").

<sup>8</sup> See Rule 4.3, Interpretation and Policy .06(a), which permits options trading on Units that represent (1) interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>49</sup> 17 CFR 200.30-3(a)(12).