

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-CboeEDGA-2024-020 and should be submitted on or before July 5, 2024.

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

**Sherry R. Haywood,**  
*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100306; File No. SR-CboeBZX-2024-050]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the ARK 21Shares Ethereum ETF To Amend the Trust Name and Reflect That the Trust Will No Longer Have a Sub-Adviser

June 10, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 7, 2024, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") 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 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 BZX Exchange, Inc. ("BZX" or the "Exchange") is filing with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to amend the ARK 21Shares Ethereum ETF (the "Trust"), shares of which have been approved by the Commission to list and trade on the Exchange pursuant to BZX Rule 14.11(e)(4), to amend the Trust name and reflect that the Trust will no longer have a sub-adviser.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), 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 Commission approved the listing and trading of shares of the Trust (the "Shares") on the Exchange pursuant to Exchange Rule 14.11(e)(4), Commodity-Based Trust Shares, on May 23, 2024.<sup>3</sup> Exchange Rule 14.11(e)(4) governs the listing and trading of Commodity-Based Trust Shares, which means a security (a) that is issued by a trust that holds (1) a specified commodity deposited with the trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying

commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash. The Shares will be issued by the Trust. The Trust was formed as a Delaware statutory trust on September 5, 2023.

The Exchange proposes to amend a representation set forth in the Exchange's previous rule filing to list and trade Shares of the Trust and to reflect a change to the Trust name.<sup>4</sup> Specifically, Amendment No. 2 represented that ARK Investment Management LLC is the sub-adviser of the Trust and will provide data, research, and as needed, operational support to the Trust including with respect to assistance in the marketing of the Shares. Now, the Exchange proposes to provide that a sub-adviser will no longer serve the Trust.

The Exchange also proposes to change the name of the Trust to the 21Shares Core Ethereum ETF. The proposed name change is consistent with an amended name to the Trust's charter and the Trust's registration statement on Form S-1 (as amended and supplemented from time to time, the "Registration Statement").<sup>5</sup>

Except for the above changes, all other representations in Amendment No. 2 remain unchanged and will continue to constitute continuing listing requirements. In addition, the Trust will continue to comply with the terms of Amendment No. 2 and the requirements of Rule 14.11(e)(4).

###### 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) of the Act.<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>7</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

<sup>4</sup> See Securities Exchange Act Release No. 100216 (May 22, 2024) 89 FR 46514 (May 29, 2024) (SR-CboeBZX-2023-070) (Notice of Filing of Amendment No. 2 to a Proposed Rule Change to List and Trade Shares of the ARK 21Shares Ethereum ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares) ("Amendment No. 2").

<sup>5</sup> See Amendment No. 3 to the Registration Statement on Form S-1, dated May 31, 2024, submitted to the Commission by the Sponsor, as defined in the Registration Statement, on behalf of the Trust (333-274364).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>22</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.

<sup>3</sup> See Securities Exchange Act Release No. 100224 (May 23, 2024) 89 FR 46937 (May 30, 2024) (SR-CboeBZX-2023-070) (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 "Approval Order").

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 two representations in Amendment No. 2 regarding the designation of a sub-adviser and the name of the Trust. As described above, the amendment to reflect that a sub-adviser will no longer serve the trust will conform to changes made to the Registration Statement. There is no requirement that a sub-adviser serve the Trust, and at least one other issuer of a spot ether exchange-traded product ("ETP") has similarly not designated a sub-adviser to its trust.<sup>8</sup> The proposed named change is also consistent with an amended name to the Trust's charter and the Trust's Registration Statement. Further, the proposed name will continue to accurately describe the Trust. Therefore, the proposed changes will promote clarity and transparency with respect to the Trust's name and service providers, to the benefit of all market participants.

Except for these changes, all other representations made in Amendment No. 2 remain unchanged and will continue to constitute continuing listing requirements for the 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 purposes of the Act. As noted above, the proposed amendment is intended to reflect a name change to the Trust and to reflect that a sub-adviser will no longer serve the Trust. The

Exchange believes these changes will not impose any burden on competition.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

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) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>11</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 asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay will allow the Exchange to immediately reflect changes to the Trust name and sub-adviser that are consistent with its Registration Statement and charter. The Commission believes that the proposed rule change presents no novel legal or regulatory issues, and 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 operative upon filing.<sup>12</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.

#### **IV. Solicitation of Comments**

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

##### *Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-CboeBZX-2024-050 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-CboeBZX-2024-050. 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-CboeBZX-2024-050 and should be submitted on or before July 5, 2024.

<sup>8</sup> For example, the proposal to list and trade shares of the VanEck Ethereum Trust did not provide for a sub-adviser. See Securities Exchange Act Release No. 100214 (May 22, 2024), 89 FR 46476 [sic] (May 29, 2024) (SR-CboeBZX-2023-069) (Notice of Filing of Amendment No. 2 to a Proposed Rule Change to List and Trade Shares of the VanEck Ethereum Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares). See also the Approval Order.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For purposes only of waiving the operative delay of this proposal, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Sherry R. Haywood,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100308; File No. SR–CboeBZX–2024–043]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Interpretation and Policy .03 to Rule 11.13 To Provide an Additional, Optional Risk Setting to Members and Clearing Members

June 10, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on May 29, 2024, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III 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 BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend Interpretation and Policy .03 to Rule 11.13 to provide an additional, optional risk setting to Members and Clearing Members. 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://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), 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 purpose of the proposed rule change is to provide Members<sup>5</sup> and Clearing Members<sup>6</sup> the option to utilize additional risk settings under proposed Interpretation and Policy .03 of Rule 11.13. Based on feedback from its Members, the Exchange proposes to offer additional, optional risk settings at the Market Participant Identifier (“MPID”) level and/or to a subset of orders identified within the MPID level (the “risk group identifier” level) that would authorize the Exchange to take automated action if a designated limit for a Member is breached. Such risk settings would provide Members and Clearing Members with enhanced abilities to manage their risk with respect to orders on the Exchange.<sup>7</sup>

<sup>5</sup> See Rule 1.5(n). A “Member” shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

<sup>6</sup> See Rule 11.15(a). The term “Clearing Member” refers to a Member that is a member of a Qualified Clearing Agency and clears transactions on behalf of another Member.

<sup>7</sup> Similarly, a Sponsoring Member may utilize the check to manage the risk of its Sponsored Participants. A Sponsoring Member shall mean a broker-dealer that has been issued a membership by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring Member shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm. See Rule 1.5(y). A Sponsored Participant shall mean a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3. Such sponsored relationships generally include where a broker-dealer allows its customer to use the broker-dealer’s MPID or other mechanism or mnemonic to enter orders into the Exchange’s System that bypass the Sponsoring Member’s order handling system and are electronically routed directly to the Exchange by the Sponsored Participant, including through a service bureau or

Proposed paragraphs (a)(3) and (4) of Interpretation and Policy .03 of Rule 11.13 set forth the specific risk settings the Exchange proposes to offer. The current risk settings noted in paragraphs (a)(1)–(2) of Interpretation and Policy .03 of Rule 11.13 will continue to be available to Members and Clearing Members. Specifically, the Exchange proposes to offer two aggregate credit risk settings (the “Aggregate Credit Risk Checks”) as follows:

- The “Aggregate Gross Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Aggregate Gross Credit Exposure Limit, both executed and open orders are included; and

- The “Aggregate Net Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Aggregate Net Credit Exposure Limit, both executed and open orders are included.

The proposed Aggregate Credit Risk Checks are nearly identical to credit risk settings monitoring both gross and net exposure provided for in paragraph (h) of Interpretation and Policy .01 of Rule 11.13, but with one notable difference. Importantly, the proposed Aggregate Credit Risk Checks would be applied at the MPID level and/or risk group identifier level, while the risk settings noted in paragraph (h) of Interpretation and Policy .01 are applied at the logical port level.<sup>8</sup> The proposed Aggregate Credit Risk Checks are also nearly identical to the Gross Credit Risk Limit and Net Credit Risk Limit risk settings provided for in Interpretation and Policy .03(a)(1)–(2) of Rule 11.13, but with one notable difference. The proposed Aggregate Credit Risk Checks are both calculated using both executed and open orders, while the risk settings noted in paragraphs (a)(1)–(2) of Interpretation and Policy .03 are calculated using only executed orders.

other third-party technology provider. See Rule 1.5(x). See also Securities Exchange Act Release No. 97146 (March 15, 2023), 88 FR 17065 (March 21, 2023), SR–CboeBZX–2023–015 (“BZX Sponsored Participant Definition Filing”) at 17066, footnote 12.

<sup>8</sup> A logical port represents a port established by the Exchange within the Exchange’s System for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt.

<sup>13</sup> 17 CFR 200.30–3(a)(12), (59).

<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).