

## POSTAL SERVICE

### Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* May 11, 2022.

#### FOR FURTHER INFORMATION CONTACT:

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**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 2, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 132 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2022–54, CP2022–59.

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**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94853; File No. SR–NASDAQ–2021–066]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Shares of the Valkyrie XBTO Bitcoin Futures Fund Under Nasdaq Rule 5711(g)

May 5, 2022.

#### I. Introduction

On August 23, 2021, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) <sup>1</sup> and Rule 19b–4 thereunder, <sup>2</sup> a proposed rule change to list and trade shares (“Shares”) of the Valkyrie XBTO Bitcoin Futures Fund (“Trust”) under Nasdaq Rule 5711(g) (Commodity Futures Trust

Shares). On August 25, 2021, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 9, 2021.<sup>3</sup>

On September 29, 2021, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> On December 7, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change.<sup>7</sup> On February 25, 2022, the Commission designated a longer period for Commission action on the proposed rule change.<sup>8</sup> On April 12, 2022, the Exchange filed partial Amendment No. 2 to the proposed rule change.<sup>9</sup> The Commission has received no comments on the proposed rule change.

When an exchange files a proposed rule change,<sup>10</sup> the Commission must determine whether the proposed rule change is consistent with the statutory provisions, and the rules and regulations, that apply to national securities exchanges.<sup>11</sup> As discussed further below, the Commission is approving the proposed rule change, as modified by Amendment Nos. 1 and 2. In approving this proposed rule change, however, the Commission emphasizes—as it has with previous orders regarding

bitcoin-related ETPs <sup>12</sup>—that its action does not rest on an evaluation of whether bitcoin, or blockchain technology more generally, has utility or value as an innovation or an investment.

#### II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

As described in more detail in the Notice and Amendment No. 2,<sup>13</sup> the Exchange proposes to list and trade the Shares of the Trust under Nasdaq Rule 5711(g), which governs the listing and trading of Commodity Futures Trust Shares on the Exchange.

The investment objective of the Trust is for the Shares to reflect the performance of bitcoin <sup>14</sup> as represented by the CME CF Bitcoin Reference Rate (“CME CF BRR”), less the Trust’s liabilities and expenses.<sup>15</sup> The CME CF BRR aggregates the trade flow of major bitcoin spot platforms during a specific calculation window into a one-a-day reference rate of the U.S. dollar price of bitcoin.<sup>16</sup> The Trust will pursue its investment objective by holding bitcoin futures that are cash-settled and traded on the Chicago Mercantile Exchange, Inc. (the “CME”), which was self-certified with the Commodity Futures

<sup>12</sup> See, e.g., Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) and To List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201–E, Securities Exchange Act Release No. 88284 (Feb. 26, 2020), 85 FR 12595, 12597 (Mar. 3, 2020) (SR–NYSEArca–2019–39) (“USBT Order”); Order Disapproving a Proposed Rule Change To List and Trade Shares of the NYDIG Bitcoin ETF Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares), Securities Exchange Act Release No. 94395 (Mar. 10, 2022), 87 FR 14932, 14934 (Mar. 16, 2022) (SR–NYSEArca–2021–57) (“NYDIG Order”).

<sup>13</sup> See Notice, *supra* note 3; Amendment No. 2, *supra* note 9.

<sup>14</sup> Bitcoins are digital assets that are issued and transferred via a decentralized, open-source protocol used by a peer-to-peer computer network through which transactions are recorded on a public transaction ledger known as the “bitcoin blockchain.” The bitcoin protocol governs the creation of new bitcoins and the cryptographic system that secures and verifies bitcoin transactions. See, e.g., Notice, 86 FR at 50571.

<sup>15</sup> See *id.* at 50574. Valkyrie Funds LLC (“Sponsor”) serves as the Trust’s sponsor and commodity pool operator; Vident Investment Advisory, LLC (“Sub-Advisor”) serves as the Trust’s sub-advisor and commodity trading advisor; and XBTO Trading, LLC is the research provider for the Sponsor and the Sub-Advisor. Delaware Trust Company serves as the trustee for the Trust. The Sponsor is currently considering third-party service providers for the roles of administrator, transfer agent, custodian, and marketing agent. See *id.* at 50571.

<sup>16</sup> See *id.* at 50573 n.8. According to the Exchange, calculation rules are geared toward maximum transparency and real-time replicability in underlying spot markets, including Bitstamp, Coinbase, Gemini, iBit, and Kraken. See *id.*

<sup>3</sup> See Securities Exchange Act Release No. 92865 (Sept. 2, 2021), 86 FR 50570 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 93172, 86 FR 55071 (Oct. 5, 2021).

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See Securities Exchange Act Release No. 93731, 86 FR 70882 (Dec. 13, 2021).

<sup>8</sup> See Securities Exchange Act Release No. 94316, 87 FR 12211 (Mar. 3, 2022).

<sup>9</sup> In Amendment No. 2, the Exchange clarified, among other things, that under no circumstances will the Trust hold and/or invest in any assets other than bitcoin futures contracts traded on the Chicago Mercantile Exchange, Inc., cash, and Money Market Instruments (as defined below), and provided additional representations that are commonly made by and/or required for futures-based exchange-traded products listed under Nasdaq Rule 5711(g) (Commodity Futures Trust Shares). Because Amendment No. 2 does not materially alter the substance of the proposed rule change, Amendment No. 2 is not subject to notice and comment. The full text of Amendment No. 2 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-nasdaq-2021-066/srnasdaq2021066-20125377-284868.pdf> (“Amendment No. 2”).

<sup>10</sup> Such filings are made under Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), and Exchange Act Rule 19b–4, 17 CFR 240.19b–4.

<sup>11</sup> See Exchange Act Section 19(b)(2)(C), 15 U.S.C. 78s(b)(2)(C).

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

<sup>2</sup> 17 CFR 240.19b–4.