

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-90 and should be submitted on or before November 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-24323 Filed 11-5-21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93510; File No. SR-CboeBZX-2021-051]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change to List and Trade Shares of the ARK 21Shares Bitcoin ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

November 2, 2021.

On July 20, 2021, Cboe BZX Exchange, Inc. ("BZX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule

19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of the ARK 21Shares Bitcoin ETF ("Trust") under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on August 6, 2021.³

On September 15, 2021, pursuant to Section 19(b)(2) of the Act,⁴ 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.⁵ This order institutes proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal

As described in more detail in the Notice,⁷ the Exchange proposes to list and trade the Shares of the Trust under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

The investment objective of the Trust would be to seek to track the performance of bitcoin, as measured by the performance of the S&P Bitcoin Index ("Index"), adjusted for the Trust's expenses and other liabilities.⁸ Each Share will represent a fractional undivided beneficial interest in the bitcoin held by the Trust. The Trust's assets will consist of bitcoin held by the Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will unexpectedly hold cash on a temporary basis.⁹

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 92543 (Aug. 2, 2021), 86 FR 43289 ("Notice"). Comments on the proposed rule change can be found at: <https://www.sec.gov/comments/sr-cboebzx-2021-051/sr-cboebzx2021051.htm>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 92989, 86 FR 52530 (Sept. 21, 2021). The Commission designated November 4, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Notice, *supra* note 3.

⁸ See *id.* at 43298. 21SharesUS LLC ("Sponsor") is the sponsor of the Trust, Delaware Trust Company is the trustee, The Bank of New York Mellon will be the administrator and transfer agent. Foreside Global Services, LLC will be the marketing agent in connection with the creation and redemption of Shares. ARK Investment Management LLC will provide assistance in the marketing of the Shares. Coinbase Custody Trust Company, LLC ("Custodian"), will be responsible for custody of the Trust's bitcoin. See *id.* at 43290, 43297.

⁹ See *id.* at 43297.

In seeking to achieve its investment objective, the Trust would hold bitcoin and would value the Shares daily based on the Index. The Index is a U.S. dollar-denominated composite reference rate for the price of bitcoin. The current platform composition of the Index is Binance, Bitfinex, Bitflyer, Bittrex, Bitstamp, Coinbase Pro, Gemini, HitBTC, Huobi, Kraken, KuCoin, and Poloniex.¹⁰ The Index methodology is intended to determine the fair market value for bitcoin by determining the principal market for bitcoin as of 4:00 p.m. E.T. daily.¹¹

The Net Asset Value ("NAV") of the Trust means the total assets of the Trust including, but not limited to, all bitcoin and cash, if any, less total liabilities of the Trust, each determined on the basis of generally accepted accounting principles. The NAV of the Trust is the aggregate value of the Trust's assets less its estimated accrued but unpaid liabilities (which include accrued expenses). In determining the Trust's NAV, the Administrator values the bitcoin held by the Trust based on the price set by the Index as of 4:00 p.m. E.T. The Administrator determines the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. E.T.¹²

The Trust will provide information regarding the Trust's bitcoin holdings, as well as an Intraday Indicative Value ("IIV") per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. E.T. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a

¹⁰ The underlying platforms are sourced by Lukka Inc. ("Data Provider") based on a combination of qualitative and quantitative metrics to analyze a comprehensive data set and evaluate factors including legal/regulation, Know-Your-Customer/transaction risk, data provision, security, team/exchange, asset quality/diversity, market quality and negative events. See *id.* at 43298.

¹¹ The Index methodology uses a ranking approach that considers several exchange characteristics including oversight and intra-day trading volume. Specifically, to rank the credibility and quality of each exchange, the Data Provider dynamically assigns a Base Exchange Score ("BES") score to the key characteristics for each exchange. The BES reflects the fundamentals of an exchange and determines which exchange should be designated as the principal market at a given point of time. This score is determined by computing a weighted average of the values assigned to four different exchange characteristics: (i) oversight; (ii) microstructure efficiency; (iii) data transparency; and (iv) data integrity. The methodology then applies a five-step weighting process for identifying a principal exchange and the last price on that exchange. Following this weighting process, an executed exchange price is assigned for bitcoin as of 4:00 p.m. E.T. See *id.*

¹² See *id.* at 43299.

⁵³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.¹³

When the Trust sells or redeems its Shares, it will do so in "in-kind" transactions in blocks of 5,000 Shares. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust.¹⁴

II. Proceedings to Determine Whether to Approve or Disapprove SR-ChoeBZX-2021-051 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹⁵ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,¹⁶ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices" and "to protect investors and the public interest."¹⁷

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,¹⁸ in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data

where appropriate to support their views:

1. What are commenters' views on whether the proposed Trust and Shares would be susceptible to manipulation? What are commenters' views generally on whether the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices? What are commenters' views generally with respect to the liquidity and transparency of the bitcoin markets, the bitcoin markets' susceptibility to manipulation, and thus the suitability of bitcoin as an underlying asset for an exchange-traded product?

2. What are commenters' views of the Exchange's assertion that the regulatory and financial landscapes relating to bitcoin and other digital assets have changed significantly since 2016?¹⁹ Are the changes that the Exchange identifies sufficient to support the determination that the proposal to list and trade the Shares is designed to protect investors and the public interest and is consistent with the other applicable requirements of Section 6(b)(5) of the Act?

3. The Exchange states that "approving this proposal . . . [would] allow U.S. investors with access to bitcoin in a regulated and transparent exchange-traded vehicle that would act to limit risk" associated with exposure through other means.²⁰ Further, the Exchange asserts that "the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal."²¹ What are commenters' views regarding such assertions?

4. According to the Exchange, "[n]early every measurable metric related to [Chicago Mercantile Exchange's] Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year."²² Based on data provided and the academic research cited by the Exchange, do commenters agree that the Chicago Mercantile Exchange ("CME")'s bitcoin futures market now represents a regulated market of significant size?²³ What are commenters' views on whether there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on CME to manipulate the Shares? What are commenters' views on the Exchange's assertion that the combination of (a) CME bitcoin futures

leading price discovery; (b) the overall size of the bitcoin market; and (c) the ability for market participants to buy or sell large amounts of bitcoin without significant market impact would help to prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or CME bitcoin futures markets?²⁴

5. What are commenters' views on the Exchange's statement, generally, that bitcoin is resistant to price manipulation and that other means to prevent fraudulent and manipulative acts and practices exist to justify dispensing with the requisite surveillance sharing agreement with a regulated market of significant size related to bitcoin?²⁵ What are commenters' views on the Exchange's assertion in support of such statement that significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly?²⁶ What are commenters' views on the assertion that offering only in-kind creations and redemptions provides unique protections against potential attempts to manipulate the Shares and that the price the Sponsor uses to value the Trust's bitcoin "is not particularly important"?²⁷

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.²⁸

²⁴ See *id.* at 43297.

²⁵ See *id.* at 43296 n.54.

²⁶ See *id.* at 43297.

²⁷ See *id.*

²⁸ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm.

¹³ See *id.*

¹⁴ See *id.* at 43297-98.

¹⁵ 15 U.S.C. 78s(b)(2)(B).

¹⁶ *Id.*

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ See Notice, *supra* note 3.

¹⁹ See *id.* at 43291-92.

²⁰ See *id.* at 43292.

²¹ See *id.* at 43296.

²² See *id.* at 43294.

²³ See *id.* at 43291, 43294-96.

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 29, 2021. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 13, 2021.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2021-051 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-2021-051. 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 (<http://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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2021-051 and should be submitted by November 29, 2021. Rebuttal comments should be submitted by December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021-24326 Filed 11-5-21; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Delegation of Authority

AGENCY: U.S. Small Business Administration.

ACTION: Notice of delegation of authority.

SUMMARY: This document provides the public with notice of the delegation of authority for certain activities related to the licensing of small business investment companies by the Administrator of the U.S. Small Business Administration (SBA) to the Agency SBIC Licensing Committee.

FOR FURTHER INFORMATION CONTACT: Arthur Spivey, Office of Investment and Innovation, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; (202) 205-7098 or arthur.spivey@sba.gov.

SUPPLEMENTARY INFORMATION: This document provides the public with notice of the Administrator's delegation of authority to the Agency SBIC Licensing Committee to review and recommend to the Administrator for approval applications for licenses to operate as a small business investment company under the Small Business Investment Act of 1958, as amended.

This delegation of authority reads as follows:

Pursuant to the authority vested in me pursuant to section 301 of the Small Business Investment Act of 1958, as amended, the authority to take any and all actions necessary to review applications for licensing under section 301 of the Small Business Investment Act of 1958, as amended, and to recommend to the Administrator which such applications should be approved is delegated to the Agency SBIC Licensing Committee (as defined in SBA Standard Operating Procedure 10 04 01, effective Aug. 6, 2014, *Processing Applications for SBIC Licenses*).

The Agency SBIC Licensing Committee shall be composed of the following members:

Chief of Staff, Chair
Associate Administrator for Capital Access
Associate Administrator for Investment and Innovation
General Counsel

Deputy General Counsel
Chief Financial Officer

This authority revokes all other authorities granted by the Administrator to recommend and approve applications for a license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended. This authority may not be re-delegated; however, in the event that the person serving in one of the positions listed as a member of the Agency SBIC Licensing Committee is absent from the office, as defined in SBA Standard Operating Procedure 00 01 3 (effective April 17, 2018), Chapter VI.B., or is unable to perform the functions and duties of his or her position, the individual serving in an acting capacity, pursuant to a written and established line of succession, may serve on the Committee during such absence or inability. In addition, if one of the positions listed as a member of the Agency SBIC Licensing Committee is vacant, the individual serving in that position in an acting capacity shall serve on the Agency SBIC Licensing Committee. This authority will remain in effect until revoked in writing by the Administrator or by operation of law.

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2021-24344 Filed 11-5-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 11579]

Privacy Act of 1974; System of Records

ACTION: Notice of a modified system of records.

SUMMARY: This system of records compiles information used in the adjudication of U.S. visas.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is applicable upon publication.

ADDRESSES: Questions can be submitted by mail, email, or by calling Eric F. Stein, the Senior Agency Official for Privacy, on (202) 485-2051. If mail, please write to: U.S. Department of State; Office of Global Information Systems, A/GIS; Room 1417, 2201 C St. NW, Washington, DC 20520. If email, please address the email to the Senior Agency Official for Privacy, Eric F. Stein, at Privacy@state.gov. Please write "Visa Records, State-39" on the envelope or the subject line of your email.

on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

²⁹ 17 CFR 200.30-3(a)(57).