

claimed to be used for any intra-day trading of the contract. And even if the BRR is a potential link between prices on certain spot bitcoin platforms and CME bitcoin futures prices, it does not—absent supporting data—necessarily follow that manipulation that impacts spot bitcoin also similarly impacts CME bitcoin futures contracts.<sup>161</sup>

Moreover, the Commission's determination in the Teucrium Order and the Valkyrie XBTO Order to approve the listing and trading of the relevant CME bitcoin futures ETPs was not based on the ETPs' use—or lack of use—of the BRR (or any other similar pricing mechanism) for the calculation of NAV, or on the fact that the BRR is used for the final cash settlement of CME bitcoin futures contracts. Rather, the Commission approved the listing and trading of such CME bitcoin futures ETPs, not because of the BRR, but because the Commission found that the listing exchanges satisfy the requirement pertaining to a surveillance-sharing agreement with a regulated market of significant size related to the underlying bitcoin assets—which for such ETPs, are CME bitcoin futures contracts, not spot bitcoin.

This commenter also addresses, among other things, the general nature and uses of bitcoin<sup>162</sup> and suggestions for improving regulation of bitcoin and other digital assets markets and related market participants.<sup>163</sup> Ultimately, however, additional discussion of these topics is unnecessary, as they do not bear on the basis for the Commission's decision to disapprove the proposal.

#### IV. Conclusion

For the reasons set forth above, the Commission does not find, pursuant to Section 19(b)(2) of the Exchange Act, that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Exchange Act.

*It is Therefore Ordered*, pursuant to Section 19(b)(2) of the Exchange Act, that proposed rule change SR–

NYSEArca-2021–89 be, and hereby is, disapproved.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2022–14309 Filed 7–5–22; 8:45 am]

**BILLING CODE 8011–01–P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95175; File No. SR–CboeBZX–2021–086]

#### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, To Amend the Opening Auction Process Provided Under Rule 11.23(b)(2)(B)

June 29, 2022.

On December 21, 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”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to to amend the Opening Auction process under BZX Rule 11.23(b)(2)(B). The proposed rule change was published for comment in the **Federal Register** on January 5, 2022.<sup>3</sup> On February 14, 2022, pursuant to Section 19(b)(2) of the 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 April 1, 2022, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and superseded the proposed rule change as originally filed.<sup>6</sup> On April 4, 2022, the Commission noticed the filing of

Amendment No. 2 and instituted proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change.<sup>8</sup>

Section 19(b)(2) of the Act<sup>9</sup> provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on January 5, 2022.<sup>10</sup> The 180th day after publication of the proposed rule change is July 4, 2022. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 2. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> designates September 2, 2022, as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR–CboeBZX–2021–086), as modified by Amendment No. 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2022–14288 Filed 7–5–22; 8:45 am]

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[www.cmegroup.com/confluence/display/EPICSANDBOX/Bitcoin](http://www.cmegroup.com/confluence/display/EPICSANDBOX/Bitcoin).

<sup>161</sup> The commenter also has not explained how the assertions that “[t]he spot and futures markets are so interconnected that actions on one instantly affect the other,” and that “manipulations in the spot market instantly affect the futures prices and vice versa,” would be compatible with the claims of the Exchange in this filing that CME bitcoin futures prices lead spot bitcoin prices.

<sup>162</sup> See Angel Letter at 2–4.

<sup>163</sup> See, e.g., Angel Letter at 9–40.

<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. 93888 (December 30, 2021), 87 FR 532.

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

<sup>5</sup> See Securities Exchange Act Release No. 94238, 87 FR 9399 (February 18, 2022). The Commission designated April 5, 2022, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>6</sup> On March 31, 2022, the Exchange submitted Amendment No. 1 to the proposed rule change, and on April 1, 2022, the Exchange withdrew Amendment No. 1 to the proposed rule change. Amendment No. 2 is available on the Commission's website at: <https://www.sec.gov/comments/sr-cboebzx-2021-086/sr-cboebzx2021086-20122189-278229.pdf>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> See Securities Exchange Act Release No. 94601, 87 FR 20895 (April 8, 2022).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> See *supra* note 3 and accompanying text.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 17 CFR 200.30–3(a)(57).