



SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-102394; File No. SR-CboeBZX-2025-014)

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to List and Trade Shares of the VanEck Solana Trust, under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

February 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 January 28, 2025, Cboe BZX Exchange, Inc. (“Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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 list and trade shares of the VanEck Solana Trust (the “Trust”),<sup>3</sup> under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares.

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.

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

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

<sup>3</sup> The Trust was formed as a Delaware statutory trust on November 30, 2021, and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

## **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 list and trade the Shares under BZX Rule 14.11(e)(4),<sup>4</sup> which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.<sup>5</sup> VanEck Digital Assets, LLC is the sponsor of the Trust (the “Sponsor”). The Shares will be registered with the Commission by means of the Trust’s registration statement on Form S-1 (the “Registration Statement”).<sup>6</sup> According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,<sup>7</sup> nor a commodity pool for purposes of the Commodity Exchange Act (“CEA”), and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

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<sup>4</sup> The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>5</sup> Any of the statements or representations regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, or the applicability of Exchange listing rules specified in this filing to list a series of Other Securities (collectively, “Continued Listing Representations”) shall constitute continued listing requirements for the Shares listed on the Exchange.

<sup>6</sup> See the Registration Statement on Form S-1, dated June 27, 2024, submitted by the Sponsor on behalf of the Trust. The descriptions of the Trust, the Shares, and the Index (as defined below) contained herein are based, in part, on information in the Registration Statement. The Registration Statement is not yet effective, and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

<sup>7</sup> 15 U.S.C. 80a-1.

Since 2017, the Commission has approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot-based Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity to be held (the “Winklevoss Test”).<sup>8</sup> The Commission has also consistently recognized that this not the *exclusive* means by which an ETP listing exchange can meet this statutory obligation.<sup>9</sup> A listing exchange could, alternatively, demonstrate that “other means to prevent fraudulent and manipulative acts and practices will be sufficient” to justify dispensing with a surveillance-sharing agreement with a regulated market of significant size.<sup>10</sup>

The Commission recently issued orders granting approval for proposals to list bitcoin- and ether-based commodity trust shares and bitcoin-based, ether-based, and a combination of

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<sup>8</sup> See Securities Exchange Act Release Nos. 78262 (July 8, 2016), 81 FR 78262 (July 14, 2016) (the “Winklevoss Proposal”). The Winklevoss Proposal was the first exchange rule filing proposing to list and trade shares of an ETP that would hold spot bitcoin (a “Spot Bitcoin ETP”). It was subsequently disapproved by the Commission. See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the “Winklevoss Order”); 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the “Spot Bitcoin ETP Approval Order”); 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; 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 “Spot ETH ETP Approval Order”).

<sup>9</sup> See Winklevoss Order, 83 FR at 37580; see Spot Bitcoin ETP Approval Order, 89 FR at 3009; see Spot ETH ETP Approval Order 89 FR at 46938.

<sup>10</sup> The Exchange notes that that the Winklevoss Test was first applied in 2017 in the Winklevoss Order, which was the first disapproval order related to an exchange proposal to list and trade a Spot Bitcoin ETP. All prior approval orders issued by the Commission approving the listing and trading of series of Trust Issued Receipts included no specific analysis related to a “regulated market of significant size.” In the Winklevoss Order and the Commission’s prior orders approving the listing and trading of series of Trust Issued Receipts have noted that the spot commodities and currency markets for which it has previously approved spot ETPs are generally unregulated and that the Commission relied on the underlying futures market as the regulated market of significant size that formed the basis for approving the series of Currency and Commodity-Based Trust Shares, including gold, silver, platinum, palladium, copper, and other commodities and currencies. The Commission specifically noted in the Winklevoss Order that the approval order issued related to the first spot gold ETP “was based on an assumption that the currency market and the spot gold market were largely unregulated.” See Winklevoss Order at 37592. As such, the regulated market of significant size test does not require that the spot market be regulated in order for the Commission to approve this proposal, and precedent makes clear that an underlying market for a spot commodity or currency being a regulated market would actually be an exception to the norm. These largely unregulated currency and commodity markets do not provide the same protections as the markets that are subject to the Commission’s oversight, but the Commission has consistently looked to surveillance sharing agreements with the underlying futures market in order to determine whether such products were consistent with the Act.

bitcoin- and ether-based trust issued receipts (these proposed funds are nearly identical to the Trust, but proposed to hold bitcoin and/or ether, respectively, instead of SOL) (“Spot Bitcoin ETPs” and “Spot ETH ETPs”). In both the Spot Bitcoin ETP Approval Order and Spot ETH ETP Approval Order, the Commission found that sufficient “other means” of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement of significant size. Specifically, the Commission found that while the Chicago Mercantile Exchange (“CME”) futures market for both bitcoin and ether were not of “significant size” related to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

As further discussed below, both the Exchange and the Sponsor believe that this proposal and the included analysis are sufficient to establish that the proposal is consistent with the Act itself and, additionally, that there are sufficient “other means” of preventing fraud and manipulation that warrant dispensing of the surveillance-sharing agreement with a regulated market of significant size, as was done with both Spot Bitcoin ETPs and Spot ETH ETPs, and that this proposal should be approved.

### Background

SOL is a digital asset that is created and transmitted through the operations of the peer-to-peer Solana Network, a decentralized network of computers that operates on cryptographic protocols. No single entity is known to own or operate the Solana Network, the infrastructure of which is understood to be collectively maintained by a decentralized user base. The Solana Network allows people to exchange tokens of value, called SOL, which are recorded on a public transaction ledger known as a blockchain. SOL can be used to pay for goods and services, including computational power on the Solana Network, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on Digital Asset Trading Platforms or in individual end-user-to-end-user transactions under a barter system. Furthermore, the Solana Network was designed to

allow users to write and implement smart contracts—that is, general-purpose code that executes on every computer in the network and can instruct the transmission of information and value based on a sophisticated set of logical conditions. Using smart contracts, users can create markets, store registries of debts or promises, represent the ownership of property, move funds in accordance with conditional instructions and create digital assets other than SOL on the Solana Network. Smart contract operations are executed on the Solana blockchain in exchange for payment of SOL. Like the Ethereum network, the Solana Network is one of a number of projects intended to expand blockchain use beyond just a peer-to-peer money system.

The Solana protocol introduced the Proof-of-History (“PoH”) timestamping mechanism. PoH automatically orders on-chain transactions by creating a historical record that proves an event has occurred at a specific moment in time. PoH is intended to provide a transaction processing speed and capacity advantage over other blockchain networks like Bitcoin and Ethereum, which rely on sequential production of blocks and can lead to delays caused by validator confirmations. PoH is a new blockchain technology that is not widely used. PoH may not function as intended. For example, it may require more specialized equipment to participate in the network and fail to attract a significant number of users, or may be subject to outages or fail to function as intended. In addition, there may be flaws in the cryptography underlying PoH, including flaws that affect functionality of the Solana Network or make the network vulnerable to attack.

In addition to the PoH mechanism described above, the Solana Network uses a proof-of-stake consensus mechanism to incentivize SOL holders to validate transactions. Unlike proof-of-work, in which miners expend computational resources to compete to validate transactions and are rewarded coins in proportion to the amount of computational resources expended, in proof-of-stake, validators risk or “stake” coins to compete to be randomly selected to validate transactions and are rewarded coins in proportion to the amount of coins staked. Any malicious activity, such as disagreeing with the eventual consensus or otherwise violating protocol rules, results in the

forfeiture or “slashing” of a portion of the staked coins. Proof- of-stake is viewed as more energy efficient and scalable than proof-of-work and is sometimes referred to as “virtual mining”.

The Solana protocol was first conceived by Anatoly Yakovenko in a 2017 whitepaper. Development of the Solana Network is overseen by the Solana Foundation, a Swiss non-profit organization, and Solana Labs, Inc., a Delaware corporation, which administered the original network launch and token distribution.

Although the Solana Labs, Inc. and the Solana Foundation continue to exert significant influence over the direction of the development of Solana, the Solana Network, like the Ethereum network, is believed to be decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of SOL. The Solana Network’s open-source nature ensures that validators have full autonomy over which software to run. And while there is coordination among validators to respond to network issues, such coordination is a characteristic of a robust, decentralized system.

The ownership of SOL continues to experience material diffusion over time, further exemplifying the decentralized structure of the Solana Network. For example, in 2020 the largest 100 SOL wallets held 30.3% of SOL, with the top ten wallets holding 9.9% of SOL. By 2024, those figures have decreased to 26.5% and 8.3%, respectively.

These factors underscore that, while the Solana Foundation and Solana Labs contribute to the development of the Solana Network, the distributed nature of the validator network ensures that no centralized party has overarching control over the Solana Network.

In light of these factors, among others, the Sponsor believes that it is applying the proper legal standards in making a good faith determination that it believes SOL is not presently and under these circumstances a security under federal law in light of the uncertainties inherent in applying the *Howey* and *Reves* tests.<sup>11</sup> As noted numerous times by the Commission as it relates to crypto

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<sup>11</sup> See SEC v. Ripple Labs, 2023 WL 4507900 at 15, (S.D.N.Y. July 13, 2023) (“XRP, as a digital token, is not in and of itself a ‘contract, transaction[,] or scheme’ that embodies the Howey requirements of an investment contract.”); SEC v. Terraform Labs, 2023 WL 4858299 at 33 (S.D.N.Y. July 31, 2023) (“To be

assets, a crypto asset is not itself a security, but rather can be the object of an investment contract based on the full set of contracts, expectations, and understanding centered on the sales and distribution of the crypto asset.<sup>12</sup> Thus, even where the facts and circumstances dictate that an investment contract exists, the token is not itself an investment contract and the investment contract does not exist in perpetuity. The investment contract (and thus security) analysis is a facts and circumstances dependent evaluation related to all circumstances surrounding the buying or selling of the crypto asset. In the Amended Binance Complaint, the Commission notes the following:

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sure, the original UST and LUNA coins, as originally created and when considered in isolation, might not then have been, by themselves, investment contracts. Much as the orange groves in *Howey* would not be considered securities if they were sold apart from the cultivator's promise to share any profits derived by their cultivation, the term "security" also cannot be used to describe any crypto-assets that were not somehow intermingled with one of the investment "protocols," did not confer a "right to ... purchase" another security, or were otherwise not tied to the growth of the Terraform blockchain ecosystem"); *SEC v. Coinbase*, 2024 WL 134037 at 29 (S.D.N.Y. March 27, 2024 at 29) ("As a preliminary matter, the SEC does not appear to contest that tokens, in and of themselves, are not securities."); *SEC v. Coinbase*, Transcript of Oral Arguments. (S.D.N.Y. Jan. 17, 2024) (MR. COSTELLO: "The token itself is not the security," at page 21) (MR. COSTELLO: "It's that network or ecosystem, that is what drives the value of the token because the token as code is linked to that ecosystem. It is tied to it. It cannot be separated from it. As the value of that network or platform or ecosystem increases, so does the value of the token. And the issuers and the project team, they drive the value of the ecosystem. So your token being part of this ecosystem is going up or down in value based entirely on what these issuers and project team members are doing and continuing to do. So it is their conduct that would be relevant for the *Howey* analysis," at page 19). See also *CFTC v. Sam Ikkurty*; In the U.S. District Court for the Northern District of Illinois, Eastern Division, No. 22-cv-02465, July 1, 2024, which stated that "OHM and Klima, two non-Bitcoin virtual currencies ... qualify as commodities," noting those virtual currencies fall into the same general class as Bitcoin, on which there is regulated futures trading; *CFTC v. My Big Coin Pay, Inc.*, 334 F. Supp. 3d 492, 498 (D. Mass. 2018) (finding non-Bitcoin virtual currency is a commodity because "the CEA only requires the existence of futures trading within a certain class (e.g. "natural gas") in order for all items within that class (e.g. "West Coast" natural gas) to be considered commodities.").

<sup>12</sup> See *SEC v. Telegram Grp., Inc.*, 448 F. Supp. 3d 352, 379 (S.D.N.Y. 2020); *SEC v. Binance Holdings Limited*, No. 1-23-cv-01599, (D.D.C. Sep 12, 2024) ECF No 273 (Plaintiff Securities and Exchange Commission's Memorandum of Law in Support of Motion for Leave to Amend the Complaint) (the "Amended Binance Complaint). Specifically, footnote 6 of the Amended Binance Complaint stated: "As this Court noted and as the SEC reiterates, with its use of the term "crypto asset securities," the SEC is not referring to the crypto asset itself as the security; rather, as the SEC has consistently maintained since the very first crypto asset *Howey* case the SEC litigated, the term is a shorthand. See *Telegram*, 448 F. Supp. 3d 352, 379 ("While helpful as a shorthand reference, the security in this case is not simply the [crypto asset], which is little more than alphanumeric cryptographic sequence ... [the] security ... [in] [t]his case ... consists of the full set of contracts, expectations, and understandings centered on the sales and distribution of the [crypto asset]."). Nevertheless, to avoid any confusion, the PAC no longer uses the shorthand term, and the SEC regrets any confusion it may have invited in this regard. MTD Order at 19-20. As the Court explained, the crypto asset is the subject of the investment contract. Defendants appear to argue that, even if the Ten Crypto Assets were offered and sold as securities during the ICOs, they do not remain securities into perpetuity. The SEC is not advancing this argument. The SEC's allegations with respect to the Ten Crypto Assets at issue in secondary markets are that their promotions and economic realities have not changed in any meaningful way under *Howey*, such that they continue to be offered and sold as investment contracts."

Defendants appear to argue that, even if the Ten Crypto Assets were offered and sold as securities during the ICOs, they do not remain securities into perpetuity. The SEC is not advancing this argument. The SEC's allegations with respect to the Ten Crypto Assets at issue in secondary markets are that their promotions and economic realities have not changed in any meaningful way under Howey, such that they continue to be offered and sold as investment contracts.

This footnote is presented in the context of the argument that transactions in Solana (among other assets) that occur on Binance's platforms are investment contracts and thus represent securities transactions. The Amended Binance Complaint also includes extensive discussion about Binance's role in promoting the Ten Crypto Assets. A broad reading of this footnote could lead one to believe that the Ten Crypto Assets discussed therein are in every context considered an investment contract and therefore in every context are a security. However that reading would contradict other statements from both the SEC and the courts, such as from Telegram: "[the] security ... [in] [t]his case ... consists of the full set of contracts, expectations, and understandings centered on the sales and distribution of the [crypto asset]." The "full set of contracts, expectations, and understandings" is critical and seems to be the basis for inclusion of Binance's role in promoting the Ten Crypto Assets in the Amended Binance Complaint. In this instance, the details about the vehicle through which a crypto asset is being held and the way that vehicle will be bought and sold seem to clearly be part of the "full set of contracts, expectations, and understandings" and therefore would warrant a separate investment contract analysis from cases like the Amended Binance Complaint unless there was another instance to analogize in which Solana had been deemed a security.

Here, however, the facts and circumstances are much different than in any prior complaint, including the Amended Binance Complaint, and therefore such prior determinations by the Commission that Solana is a security under the specific applicable sets of facts and

circumstances should not apply as it relates to this rule filing and the specific facts and circumstances presented herein.

### Section 6(b)(5) and the Applicable Standards

The Commission has approved numerous series of Trust Issued Receipts,<sup>13</sup> including Commodity-Based Trust Shares,<sup>14</sup> to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices;<sup>15</sup> and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that this filing sufficiently demonstrates 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.

As noted above, the Commission has recognized that the “regulated market of significant size” standard is not the only means for satisfying Section 6(b)(5) of the Act, specifically providing

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<sup>13</sup> See Exchange Rule 14.11(f).

<sup>14</sup> Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

<sup>15</sup> Much like bitcoin and ETH, the Exchange believes that SOL 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. The geographically diverse and continuous nature of SOL trading render it difficult and prohibitively costly to manipulate the price of SOL. The fragmentation across platforms and the capital necessary to maintain a significant presence on each trading platform make manipulation of SOL prices through continuous trading activity challenging. To the extent that there are trading platforms engaged in or allowing wash trading or other activity intended to manipulate the price of SOL on other markets, such pricing does not normally impact prices on other trading platforms because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between SOL markets and the presence of arbitrageurs in those markets means that the manipulation of the price of SOL on any single venue would require manipulation of the global SOL price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular trading platforms or OTC platform. Further, the speed and relatively inexpensive nature of transactions on the Solana network allow arbitrageurs to quickly move capital between trading platforms where price dislocations may occur. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

that a listing exchange could demonstrate that “other means to prevent fraudulent and manipulative acts and practices” are sufficient to justify dispensing with the requisite surveillance-sharing agreement.<sup>16</sup> While there is currently no futures market for SOL, in the Spot Bitcoin ETF Approval Order and Spot ETH ETF Approval Order the Commission determined that the CME bitcoin futures market and CME ETH future market, respectively, were not of “significant size” related to the spot market. Instead, the Commission found that sufficient “other means” of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement of significant size. The Exchange and Sponsor believe that this proposal provides for other means of preventing fraud and manipulation justify dispensing with a surveillance-sharing agreement of significant size.

Over the past several years, U.S. investor exposure to SOL, through OTC SOL Funds and digital asset trading platforms, has grown into billions of dollars. The Exchange believes that approving this proposal (and comparable proposals) provides the Commission with the opportunity to allow U.S. investors with access to SOL in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; and (iii) providing an alternative to custodial spot SOL.

The Exchange believes that the policy concerns are mitigated by the fact that the Exchange believes that the underlying reference asset is not susceptible to manipulation because the nature of the SOL ecosystem makes manipulation of SOL difficult. The geographically diverse and continuous nature of SOL trading makes it difficult and prohibitively costly to manipulate the price of SOL and, in many instances, the SOL market is generally less susceptible to manipulation than the equity, fixed income, and commodity futures markets. There are a

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<sup>16</sup> See Winklevoss Order at 37580. The Commission has also specifically noted that it “is not applying a ‘cannot be manipulated’ standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.” *Id.* at 37582.

number of reasons this is the case, including that there is not inside information about revenue, earnings, corporate activities, or sources of supply; manipulation of the price on any single venue would require manipulation of the global SOL price in order to be effective; a substantial over-the-counter market provides liquidity and shock-absorbing capacity; SOL's 24/7/365 nature provides constant arbitrage opportunities across all trading venues; and it is unlikely that any one actor could obtain a dominant market share.

Further, SOL is arguably less susceptible to manipulation than other commodities that underlie ETPs; there may be inside information relating to the supply of the physical commodity such as the discovery of new sources of supply or significant disruptions at mining facilities that supply the commodity that simply are inapplicable as it relates to certain cryptoassets, including SOL. Further, the Exchange believes that the fragmentation across SOL trading platforms and increased adoption of SOL, as displayed through increased user engagement and trading volumes, and the Solana Network make manipulation of SOL prices through continuous trading activity unlikely. Moreover, the linkage between the SOL markets and the presence of arbitrageurs in those markets means that the manipulation of the price of SOL price on any single venue would require manipulation of the global SOL price in order to be effective. Arbitrageurs must have funds distributed across multiple SOL trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular SOL trading platform. As a result, the potential for manipulation on a particular SOL trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences. For all of these reasons, SOL is not particularly susceptible to manipulation, especially as compared to other approved ETP reference assets.

VanEck Solana Trust

Delaware Trust Company is the trustee ("Trustee"). A third party will be the administrator ("Administrator") and transfer agent ("Transfer Agent") and will be responsible for

the custody of the Trust's cash and cash equivalents<sup>17</sup> (the "Cash Custodian"). Van Eck Securities Corporation will be the marketing agent ("Marketing Agent") in connection with the creation and redemption of "Creation Baskets", as defined below, of Shares. A third-party custodian (the "Custodian"), will be responsible for custody of the Trust's SOL.

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in the Trust. The Trust's assets will only consist of SOL, cash, or cash and cash equivalents.

According to the Registration Statement, the Trust will be neither an investment company registered under the Investment Company Act of 1940, as amended,<sup>18</sup> nor a commodity pool for purposes of the CEA, and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

Neither the Trust, nor the Sponsor, nor the Custodian, nor any other person associated with the Trust will, directly or indirectly, engage in action where any portion of the Trust's SOL becomes subject to the SOL proof-of-stake validation or is used to earn additional SOL or generate income or other earnings. The Trust will not acquire and will disclaim any incidental right ("IR") or IR asset received, for example as a result of forks or airdrops, and such assets will not be taken into account for purposes of determining NAV.

When the Trust sells or redeems its Shares, it will do so in cash transactions in blocks of 25,000 Shares (a "Creation Basket") at the Trust's net asset value ("NAV"). For creations, authorized participants will deliver cash to the Trust's account with the Cash Custodian in exchange for Shares. Upon receipt of an approved creation order, the Sponsor, on behalf of the Trust, will submit an order to buy the amount of SOL represented by a Creation Basket. Based off SOL executions, the Cash Custodian will request the required cash from the authorized participant; the Transfer Agent will only issue Shares when the authorized participant has made

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<sup>17</sup> Cash equivalents are short-term instruments with maturities of less than 3 months.

<sup>18</sup> 15 U.S.C. 80a-1.

delivery of the cash. Following receipt by the Cash Custodian of the cash from an authorized participant, the Sponsor, on behalf of the Trust, will approve an order with one or more previously onboarded trading partners to purchase the amount of SOL represented by the Creation Basket. This purchase of SOL will normally be cleared through an affiliate of the Custodian (although the purchase may also occur directly with the trading partner) and the SOL will settle directly into the Trust's account at the Custodian.<sup>19</sup> Authorized participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Trust's assets, and market conditions at the time of a transaction. Shareholders who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the NAV of the Shares of the Trust.

#### Investment Objective

According to the Registration Statement and as further described below, the investment objective of the Trust is for the Shares to reflect the performance of the price of SOL less the expenses of the Trust's operations. In seeking to achieve its investment objective, the Trust will hold SOL and will value its Shares daily based on the MarketVector™ Solana Benchmark Rate (the "Index") and process all creations and redemptions in cash transactions with authorized participants. The Trust is not actively managed.

#### The Index

As described in the Registration Statement, the Trust will use the Index to calculate the Trust's NAV. The Index is designed to be a robust price for SOL in USD and there is no component other than SOL in the Index. The underlying SOL platforms (the "constituent platforms") are sourced from the industry leading CCData Centralized Exchange Benchmark review report. CCData's Centralized Exchange Benchmark was established in 2019 as a tool

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<sup>19</sup> For redemptions, the process will occur in the reverse order. Upon receipt of an approved redemption order, the Sponsor, on behalf of the Trust, will submit an order to sell the amount of SOL represented by a Creation Basket and the cash proceeds will be remitted to the authorized participant when the 25,000 Shares are received by the Transfer Agent.

designed to bring clarity to the digital trading platform sector by providing a framework for assessing risk and in turn bringing transparency and accountability to a complex and rapidly evolving market.<sup>20</sup>

In calculating the closing value of the Index, the methodology captures trade prices and sizes from SOL platforms and examines twenty three-minute periods leading up to 4:00 p.m. ET. It then calculates an equal-weighted average of the volume-weighted median price of these twenty three-minute periods, removing the highest and lowest contributed prices. Using twenty consecutive three-minute segments over a sixty-minute period means malicious actors would need to sustain efforts to manipulate the market over an extended period of time, or would need to replicate efforts multiple times across SOL platforms, potentially triggering review. This extended period also supports authorized participant activity by capturing volume over a longer time period, rather than forcing authorized participants to mark an individual close or auction. The use of a median price reduces the ability of outlier prices to impact the NAV, as it systematically excludes those prices from the NAV calculation. The use of a volume-weighted median (as opposed to a traditional median) serves as an additional protection against attempts to manipulate the NAV by executing a large number of low-dollar trades, because any manipulation attempt would have to involve a majority of global spot SOL volume in a three-minute window to have any influence on the NAV. As discussed in the Registration Statement, removing the highest and lowest prices further protects against attempts to manipulate the NAV, requiring bad actors to act on multiple SOL platforms at once to have any ability to influence the price.

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<sup>20</sup> The CCData Centralized Exchange Benchmark methodology utilizes a combination of qualitative and quantitative metrics to analyze a comprehensive data set across eight categories of evaluation: legal/regulation, KYC/transaction risk, data provision, security, team/exchange, asset quality/diversity, market quality and negative events. Based on the CCData Centralized Exchange Benchmark, MarketVector initially selects the top five trading platforms by rank for inclusion in the Index. If an eligible trading platform is downgraded by two or more notches in a semi-annual review and is no longer in the top five by rank, it is replaced by the highest ranked non-component trading platform. Adjustments to exchange coverage are announced four business days prior to the first business day of each of March and September at 23:00 CET. The Index is rebalanced at 16:00:00 GMT/BST on the last business day of each of February and August.

## Net Asset Value

NAV means the total assets of the Trust (which includes all SOL and cash and cash equivalents) less total liabilities of the Trust. 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. ET based on the closing value of the Index. 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 NAV, the Administrator values the SOL held by the Trust based on the closing value of the Index as of 4:00 p.m. ET. The Administrator also determines the NAV per Share.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time.

The Sponsor will monitor for significant events related to crypto assets that may impact the value of SOL and will determine, in good faith, and in accordance with its valuation policies and procedures, whether to fair value the Trust's SOL on a given day based on whether certain pre-determined criteria have been met. For example, if the closing value of the Index deviates by more than a pre-determined amount from an alternate benchmark available to the Sponsor, the Sponsor may determine to utilize an alternate benchmark. The Sponsor may also fair value the Trust's SOL using observed market transactions from various trading platforms, including some or all of the trading platforms included in the Index.<sup>21</sup>

## Availability of Information

In addition to the price transparency of the Index, the Trust will provide information regarding the Trust's SOL holdings as well as additional data regarding the Trust. The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) the current NAV per Share daily and the prior business day's NAV per Share

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<sup>21</sup> Any alternative method to determining NAV will only be employed on an ad hoc basis. Any permanent change to the calculation of the NAV would require a proposed rule change under Rule 19b-4.

and the reported BZX Official Closing Price<sup>22</sup>; (b) the BZX Official Closing Price in relation to the NAV per Share as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV per Share; (c) data in chart form displaying the frequency distribution of discounts and premiums of the BZX Official Closing Price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The aforementioned information will be published as of the close of business and available on the Sponsor's website at [www.vaneck.com](http://www.vaneck.com), or any successor thereto. The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association ("CTA"). The Trust will also disseminate its holdings on a daily basis on its website.

The Intraday Indicative Value ("IIV") will updated during Regular Trading Hours to reflect changes in the value of the Trust's SOL holdings during the trading day. The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV may differ from the NAV because NAV is calculated, using the closing value of the Index, once a day at 4 p.m. ET, whereas the IIV draws prices from the last trade on each constituent platform in an effort to produce a relevant, real-time price). The Trust will provide an 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. to 4:00 p.m. E.T.). The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours through the facilities of the CTA and Consolidated Quotation System (CQS) high speed

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<sup>22</sup> As defined in Rule 11.23(a)(3), the term "BZX Official Closing Price" shall mean the price disseminated to the consolidated tape as the market center closing trade.

lines. In addition, the IIV will be available through on-line information services, such as Bloomberg and Reuters.

The price of SOL will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours.

As noted above, the Index is calculated every 15 seconds and information about the Index and Index value, including index data and key elements of how the Index is calculated, will be publicly available at <https://www.marketvector.com/>.

Quotation and last sale information for SOL is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in SOL is available from major market data vendors and from the trading platforms on which SOL are traded. Depth of book information is also available from SOL trading platforms. The normal trading hours for SOL trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's BZX Official Closing Price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

#### The Custodian

The Custodian's services (i) allow SOL to be deposited from a public blockchain address to the Trust's SOL account and (ii) allow SOL to be withdrawn from the SOL account to a public blockchain address as instructed by the Trust. The custody agreement requires the Custodian to hold the Trust's SOL in cold storage, unless required to facilitate withdrawals as a temporary measure. The Custodian will use segregated cold storage SOL addresses for the Trust which are separate from the SOL addresses that the Custodian uses for its other customers and which are

directly verifiable via the SOL blockchain. The Custodian will safeguard the private keys to the SOL associated with the Trust's SOL account. The Custodian will at all times record and identify in its books and records that such SOL constitutes the property of the Trust. The Custodian will not withdraw the Trust's SOL from the Trust's account with the Custodian, or loan, hypothecate, pledge or otherwise encumber the Trust's SOL, without the Trust's instruction. If the custody agreement terminates, the Sponsor may appoint another custodian and the Trust may enter into a custodian agreement with such custodian.

#### Creation and Redemption of Shares

When the Trust sells or redeems its Shares, it will do so in cash transactions in blocks of 25,000 Shares that are based on the amount of SOL held by the Trust on a per unit (*i.e.*, 25,000 Share) basis. According to the Registration Statement, on any business day, an authorized participant may place an order to create one or more Creation Baskets. Purchase orders must be placed by 4:00 p.m. ET, or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received is considered the purchase order date. The total deposit of cash required is based on the combined NAV of the number of Shares included in the Creation Baskets being created determined as of 4:00 p.m. ET on the date the order to purchase is properly received. The Administrator determines the quantity of SOL associated with a Creation Basket for a given day by dividing the number of SOL held by the Trust as of the opening of business on that business day, adjusted for the amount of SOL constituting estimated accrued but unpaid fees and expenses of the Trust as of the opening of business on that business day, by the quotient of the number of Shares outstanding at the opening of business divided by the number of Shares in a Creation Basket.

The authorized participants will deliver only cash to create Shares and will receive only cash when redeeming Shares. Further, authorized participants will not directly or indirectly purchase, hold, deliver, or receive SOL as part of the creation or redemption process or otherwise

direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving SOL as part of the creation or redemption process.

The Trust will create Shares by receiving SOL from a third party that is not the authorized participant and the Trust—not the authorized participant—is responsible for selecting the third party to facilitate the delivery of SOL. Further, the third party will not be acting as an agent of the authorized participant with respect to the delivery of the SOL to the Trust or acting at the direction of the authorized participant with respect to the delivery of the SOL to the Trust. When fulfilling a redemption request, the Trust will redeem shares by delivering SOL to a third party that is not the authorized participant and the Trust—not the authorized participant—is responsible for selecting such third party to receive the SOL. Further, the third party will not be acting as an agent of the authorized participant with respect to the receipt of the SOL from the Trust or acting at the direction of the authorized participant with respect to the receipt of the SOL from the Trust.

The procedures by which an authorized participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets.

The Sponsor will maintain ownership and control of SOL in a manner consistent with good delivery requirements for spot commodity transactions.

#### **Rule 14.11(e)(4) – Commodity-Based Trust Shares**

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange represents that, for initial and continued listing, the Trust must be in compliance with Rule 10A-3 under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of listing on the Exchange. The Exchange will obtain a representation that the NAV will be calculated daily and that the NAV and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the

Shares will be: (a) issued by a trust that holds (1) a specified commodity<sup>23</sup>-deposited with the trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) 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) 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.

Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker ("Market Maker") in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other

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<sup>23</sup> For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act.

related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books and records (see, e.g., Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying SOL or any other SOL derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its Members and their associated persons, which include any person or entity controlling a Member. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of a Member that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares

inadvisable. These may include: (1) the extent to which trading is not occurring in the SOL underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

If the IIV or the value of the Index is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the value of the Index occurs. If the interruption to the dissemination of the IIV or the value of the Index persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a) the minimum price variation for quoting and entry of orders in securities traded on the Exchange is \$0.01 where the price is greater than \$1.00 per share or \$0.0001 where the price is less than \$1.00 per share. The Shares of the Trust will conform to the initial and continued listing criteria set forth in BZX Rule 14.11(e)(4).

#### Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the

Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares or any other SOL derivative with other markets and other entities that are members of the ISG, and the Exchange, or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares or any other SOL derivative from such markets and other entities.<sup>24</sup> The Exchange may obtain information regarding trading in the Shares or any other SOL derivative via ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Sponsor has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

#### Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) the procedures for the

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<sup>24</sup> For a list of the current members and affiliate members of ISG, see [www.isgportal.com](http://www.isgportal.com).

creation and redemption of Creation Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours<sup>25</sup> when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information. The Information Circular will also reference the fact that there is no regulated source of last sale information regarding SOL, and that the Commission has no jurisdiction over the trading of SOL as a commodity.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>26</sup> in general and Section 6(b)(5) of the Act<sup>27</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.

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<sup>25</sup> Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

<sup>26</sup> 15 U.S.C. 78f.

<sup>27</sup> 15 U.S.C. 78f(b)(5).

The Commission has approved numerous series of Trust Issued Receipts,<sup>28</sup> including Commodity-Based Trust Shares,<sup>29</sup> to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange’s rules are designed to prevent fraudulent and manipulative acts and practices;<sup>30</sup> and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that this filing sufficiently demonstrates that on the whole, 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.

As noted above, the Commission has recognized that the “regulated market of significant size” standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that “other means to prevent fraudulent and manipulative

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<sup>28</sup> See Exchange Rule 14.11(f).

<sup>29</sup> Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

<sup>30</sup> The Exchange believes that SOL 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. The geographically diverse and continuous nature of SOL trading render it difficult and prohibitively costly to manipulate the price of SOL. The fragmentation across SOL platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of SOL prices through continuous trading activity challenging. To the extent that there are SOL trading platforms engaged in or allowing wash trading or other activity intended to manipulate the price of SOL on other markets, such pricing does not normally impact prices on other trading platforms because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the SOL markets and the presence of arbitrageurs in those markets means that the manipulation of the price of SOL price on any single venue would require manipulation of the global SOL price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular SOL trading platform or OTC platforms. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

acts and practices” are sufficient to justify dispensing with the requisite surveillance-sharing agreement.<sup>31</sup> The Exchange and Sponsor believe that such conditions are present.

The Exchange believes that the proposal is designed to protect investors and the public interest. Over the past several years, U.S. investor exposure to SOL has grown into the billions of dollars, mostly through transactions in spot SOL on digital asset trading platforms. The Exchange believes that approving this proposal (and comparable proposals) provides the Commission with the opportunity to allow U.S. investors with access to SOL in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; and (iii) providing an alternative to custodial spot SOL.

The Exchange believes that the policy concerns are mitigated by the fact that the Exchange believes that the underlying reference asset is not susceptible to manipulation because the nature of the SOL ecosystem makes manipulation of SOL difficult. The geographically diverse and continuous nature of SOL trading makes it difficult and prohibitively costly to manipulate the price of SOL and, in many instances, the SOL market is generally less susceptible to manipulation than the equity, fixed income, and commodity futures markets. There are a number of reasons this is the case, including that there is not inside information about revenue, earnings, corporate activities, or sources of supply; manipulation of the price on any single venue would require manipulation of the global SOL price in order to be effective; a substantial over-the-counter market provides liquidity and shock-absorbing capacity; SOL’s 24/7/365 nature provides constant arbitrage opportunities across all trading venues; and it is unlikely that any one actor could obtain a dominant market share.

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<sup>31</sup> See Winklevoss Order at 37580. The Commission has also specifically noted that it “is not applying a ‘cannot be manipulated’ standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.” Id. at 37582.

Further, SOL is arguably less susceptible to manipulation than other commodities that underlie ETPs; there may be inside information relating to the supply of the physical commodity such as the discovery of new sources of supply or significant disruptions at mining facilities that supply the commodity that simply are inapplicable as it relates to bitcoin. Further, the Exchange believes that the fragmentation across SOL trading platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of SOL prices through continuous trading activity unlikely. Moreover, the linkage between the SOL markets and the presence of arbitrageurs in those markets means that the manipulation of the price of SOL price on any single venue would require manipulation of the global SOL price in order to be effective. Arbitrageurs must have funds distributed across multiple SOL trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular SOL trading platform. As a result, the potential for manipulation on a particular SOL trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences. For all of these reasons, SOL is not particularly susceptible to manipulation, especially as compared to other approved ETP reference assets.

#### Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any

failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed SOL derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

#### Availability of Information

In addition to the price transparency of the Index, the Trust will provide information regarding the Trust's SOL holdings as well as additional data regarding the Trust. The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) the current NAV per Share daily and the prior business day's NAV per Share and the reported BZX Official Closing Price<sup>32</sup>; (b) the BZX Official Closing Price in relation to the NAV per Share as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV per Share; (c) data in chart form displaying the frequency distribution of discounts and premiums of the BZX Official Closing Price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The aforementioned information will be published as of the close of business and available on the Sponsor's website at [www.vaneck.com](http://www.vaneck.com), or any successor thereto. The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares

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<sup>32</sup> As defined in Rule 11.23(a)(3), the term "BZX Official Closing Price" shall mean the price disseminated to the consolidated tape as the market center closing trade.

will be disseminated through the facilities of the CTA. The Trust will also disseminate its holdings on a daily basis on its website.

The Intraday Indicative Value (“IIV”) will be updated during Regular Trading Hours to reflect changes in the value of the Trust’s SOL holdings during the trading day. The IIV may differ from the NAV because NAV is calculated, using the closing value of the Index, once a day at 4:00 p.m. Eastern time whereas the IIV draws prices from the last trade on each constituent platform to produce a relevant, real-time price. The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The Trust will provide an 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. to 4:00 p.m. E.T.). The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange’s Regular Trading Hours through the facilities of the CTA and CQS high speed lines. In addition, the IIV will be available through on-line information services such as Bloomberg and Reuters.

The price of SOL will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours.

As noted above, the Index is calculated every 15 seconds and information about the Index and Index value, including index data and key elements of how the Index is calculated, will be publicly available at <https://www.marketvector.com/>.

Quotation and last sale information for SOL is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in SOL is available from major market data vendors and from the trading platforms on which SOL are traded. Depth of book information is also available from SOL trading platforms. The normal trading hours for SOL trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's BZX Official Closing Price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

In sum, the Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act, that on the whole the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by investor protection issues that would be resolved by approving this proposal.

The Exchange believes that the proposal is, in particular, designed to protect investors and the public interest. The investor protection issues for U.S. investors has grown significantly over the last several years, through premium/discount volatility and management fees for OTC SOL Funds. As discussed throughout, this growth investor protection concerns need to be re-evaluated and rebalanced with the prevention of fraudulent and manipulative acts and practices concerns that previous disapproval orders have relied upon.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

**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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

**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**

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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:

#### 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-2025-014 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-2025-014. 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-2025-014 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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