



**SECURITIES AND EXCHANGE COMMISSION**  
**[Release No. 34-102442; File No. SR-CBOE-2025-008]**

**Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Options on the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, and the Bitwise Ethereum ETF**

February 18, 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 February 5, 2025, Cboe Exchange, Inc. (“Exchange”) 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. On February 6, 2025, the Exchange submitted Amendment No. 1 to the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rules 4.3, 4.20, and 8.30, to allow the Exchange to list and trade options on the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, and the Bitwise Ethereum ETF. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

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

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

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 amend Rules [sic] 4.3 regarding the criteria for underlying securities. Specifically, the Exchange proposes to amend Rule 4.3, Interpretation and Policy .06(a)(4) to allow the Exchange to list and trade options on Units<sup>3</sup> that represent interests in : the Grayscale Ethereum Trust ETF (the “Grayscale Fund”), the Grayscale Ethereum Mini Trust ETF (the “Grayscale Mini Fund”), and the Bitwise Ethereum ETF (the “Bitwise Fund” and, collectively, the “Ethereum Funds”),<sup>4</sup> designating them as “Units” deemed appropriate for options trading on the Exchange. This is a competitive filing based on a similar proposal submitted by NYSE American, LLC (“NYSE American [sic] which is currently pending with the Securities and Exchange Commission (the “Commission”).<sup>5</sup> Current Rule 4.3, Interpretation and Policy .06 provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Units that represent certain types of interests,<sup>6</sup> including interests in certain specific

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<sup>3</sup> Rule 1.1 defines a “Unit” (which may also be referred to as an ETF) as a share or other security traded on a national securities exchange and defined as an NMS stock as set forth in Rule 4.3.

<sup>4</sup> See Securities Exchange Act Release Nos. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2023-70; SR-NYSEArca-2024-31; SR-NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023-087; SR-CboeBZX-2023-095; and SR-CboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) (“Ethereum ETP Approval Order”); and 100541 (July 17, 2024), 89 FR 59786 (July 23, 2024) (SR-NYSEArca-2024-44; and SR-NYSEArca-2024-53) (Order Granting Approval of Proposed Rule Changes To List and Trade Shares of the Grayscale Ethereum Mini Trust and ProShares Ethereum ETF).

<sup>5</sup> See Securities Exchange Act Release Nos. 99306 (August 7, 2024), 89 FR 65957 (August 13, 2024) (SR-NYSEAMER-2024-45), as amended by Amendment No. 1 (February 5, 2025) (“NYSE American Proposal”).

<sup>6</sup> See Rule 4.3, Interpretation and Policy .06(a), which permits options trading on Units that represent (1) interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse purchase agreements (the “Financial Instruments”), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the “Money Market

trusts that hold financial instruments, money market instruments, precious metals (which are deemed commodities), or Bitcoin (which is another crypto currency and deemed a commodity).<sup>7</sup> In addition, Rule 4.3, Interpretation and Policy .06 requires that Units must either (1) meet the criteria and standards set forth in Rule 4.3, Interpretation and Policy .01(a),<sup>8</sup> or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus.

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Instruments”) comprising or otherwise based on or representing investments in indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust (“Currency Trust Shares”); (3) commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (“Commodity Pool Units”); (4) interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Silver Trust, the Aberdeen Standard Physical Gold Trust, the Aberdeen Standard Physical Palladium Trust, the Aberdeen Standard Physical Platinum Trust, the Sprott Physical Gold Trust, the Goldman Sachs Physical Gold ETF, the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, or the Bitwise Bitcoin ETF (the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, and the Bitwise Bitcoin ETF are referred to as the “Bitcoin Funds”); or (5) an interest in a registered investment company (“Investment Company”) organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (“NAV”), and when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (“Managed Fund Share”).

<sup>7</sup> On October 18, 2024, the Commission approved the Exchange’s proposal to list and trade options on the Fidelity Wise Origin Bitcoin Fund and the ARK 21Shares Bitcoin ETF. See Securities Exchange Act Release No. 101387 (October 18, 2024), 89 FR 84948 (October 24, 2024) (SR-CBOE-2024-035).

<sup>8</sup> Rule 4.3, Interpretation and Policy .01 provides for guidelines to be by the Exchange when evaluating potential underlying securities for Exchange option transactions.

The Ethereum Funds are Ethereum-backed commodity ETFs structured as trusts. Similar to any Unit currently deemed appropriate for options trading under Rule 4.3, Interpretation and Policy .06, the investment objective of each Ethereum Fund is for its shares to reflect the performance of Ethereum (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to Ethereum without the complexities of Ethereum delivery. As is the case for Units currently deemed appropriate for options trading, a Ethereum Fund's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of Ethereum and are designed to track Ethereum or the performance of the price of Ethereum and offer access to the Ethereum market.<sup>9</sup> The Ethereum Funds provide investors with cost-efficient alternatives that allow a level of participation in the Ethereum market through the securities market. The Ethereum Funds are similar to the Bitcoin Funds, except that those funds hold Bitcoin (another cryptocurrency) rather than Ethereum, which are already eligible for options trading on the Exchange.

The Exchange's initial listing standards for Units on which options may be listed and traded on the Exchange will apply to the Ethereum Funds. Pursuant to Rule 4.3(a), a security (which includes a Unit) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934, as amended (the "Act")), and be characterized by a substantial number of outstanding shares that are widely held and actively traded.<sup>10</sup> Additionally, Rule 4.3(a), Pursuant to Rule 4.3, Interpretation and Policy .06, requires that Units must either (1) meet the criteria and standards set forth in Rule 4.3, Interpretation and Policy .01(a),<sup>11</sup> or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price

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<sup>9</sup> The trust may include minimal cash.

<sup>10</sup> The criteria and guidelines for a security to be considered widely held and actively traded are set forth in Rule 4.3, Interpretation and Policy .01, subject to exceptions.

<sup>11</sup> Rule 4.3, Interpretation and Policy .01 provides for guidelines to be by the Exchange when evaluating potential underlying securities for Exchange option transactions.

related to net asset value, and the issuer must be obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus. Each Ethereum Fund satisfies Rule 4.3, Interpretation and Policy .06(b)(2), as each is subject to this creation and redemption process.

While not required by the Rules for purposes of options listings, the Exchange believes the Ethereum Funds satisfy the criteria and guidelines set forth in Rule 4.3, Interpretation and Policy .01. Pursuant to Rule 4.3(a), a security (which includes a Unit) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act, and be characterized by a substantial number of outstanding shares that are widely held and actively traded.<sup>12</sup> Each of the Ethereum Funds is an NMS Stock as defined in Rule 600 of Regulation NMS under the Act.<sup>13</sup> Further, the Exchange believes each Ethereum Fund is characterized by a substantial number of outstanding shares that are widely held and actively traded.

With respect to the Grayscale Fund, the Grayscale Mini Fund, and the Bitwise Fund, the Exchange reviewed the data presented by NYSE American in its filing with respect to shares outstanding (and corresponding market capitalization), number of beneficial holders, and trading volume. As of November 29, 2024, the Ethereum Funds had the following number of shares outstanding (and corresponding market capitalization):

Ethereum Fund	Shares Outstanding	Market Value (11/29/24)
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<sup>12</sup> The criteria and guidelines for a security to be considered widely held and actively traded are set forth in Rule 4.3, Interpretation and Policy .01, subject to exceptions.

<sup>13</sup> An “NMS stock” means any NMS security other than an option, and an “NMS security” means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan (or an effective national market system plan for reporting transaction in listed options). See 17 CFR § 242.600(b)(64) (definition of “NMS security”) and (65) (definition of “NMS stock”).

Grayscale Fund	177,838,500	\$5,425,852,635
Grayscale Mini Fund	45,220,787	\$1,547,003,157
Bitwise Fund	16,600,000	\$430,886,200

As shown above, each of the Ethereum Funds had significantly more than 7,000,000 shares outstanding, which is the minimum number of shares of a corporate stock that the Exchange generally requires to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01.<sup>14</sup> The Exchange believes this demonstrates that each Ethereum Fund is characterized by a substantial number of outstanding shares. Further, the below table contains information regarding the number of beneficial holders of the Ethereum Funds as of December 31, 2024.

Ethereum Fund	Beneficial Holders (as of 12/31/24)
Grayscale Fund	112,320
Grayscale Mini Fund	17,396
Bitwise Fund	5,992

As this table shows, each Ethereum Fund has significantly more than 2,000 beneficial holders (approximately 56, 9, and 3 times more, respectively), which is the minimum number of holders the Exchange generally requires for corporate stock in order to list options on that stock pursuant to Rule 4.3, Interpretation and Policy .01.<sup>15</sup> Therefore, the Exchange believes the shares of each Ethereum Fund are widely held.

The Exchange also believes that, based on trading volume since the Ethereum Funds began trading on July 23, 2024, shares of the Ethereum Funds are actively traded. In particular, the table below sets forth the total trading volume (by shares and notional) from the inception of trading

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<sup>14</sup> The Exchange notes that on November 19, 2024, the Grayscale Mini Fund underwent a reverse stock split, reducing the number of shares outstanding -- and increasing the share price -- tenfold.

<sup>15</sup> The number of beneficial holders of the Grayscale Mini Fund may have been impacted by the 10:1 reverse stock split, as investors with fewer than 10 shares would have received a cash payout. See id.

through either November 29, 2024 (for the Grayscale Fund and the Grayscale Mini Fund) or December 31, 2024 (for the Bitwise Fund). In addition, the below table illustrates the average daily volume (“ADV”) over the 30-day period of either October 29, 2024 - through November 29, 2024 (for the Grayscale Fund and the Grayscale Mini Fund) or November 29, 2024 - through December 31, 2024 (for the Bitwise Fund).<sup>16</sup>

Ethereum Fund	Trading Volume (Shares)	Trading Volume (Notional \$)	ADV (Shares)
Grayscale Fund	427,312,540	\$10,289,781,199	4,237,811
Grayscale Mini Fund	172,400,020	\$4,614,428,230	3,065,796
Bitwise Fund	44,477,060	\$959,491,343	291,627

As demonstrated above, even though the Ethereum Funds have been trading for less than one year, the trading volume for each Ethereum Fund is substantially higher than 2,400,000 shares (roughly 178, 72, and 16 times that amount), which is the minimum 12-month volume the Exchange generally requires for a security in order to list options on that security as set forth in Rule 4.3, Interpretation and Policy .01. The Exchange believes this data demonstrates each Ethereum Fund is characterized by a substantial number of outstanding shares that are actively traded.

Options on the Ethereum Funds will also be subject to the Exchange’s continued listing standards set forth in Rule 4.4, Interpretation and Policy .06 for Units deemed appropriate for options trading pursuant to Rule 4.3, Interpretation and Policy .06. Specifically, Rule 4.4, Interpretation and Policy .06 provides that Units that were initially approved for options trading pursuant to Rule 4.3, Interpretation and Policy .06 shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that such Units, if the Units cease to be an NMS stock or the Units are halted from trading in their primary market. Additionally, options on Units may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options

<sup>16</sup> See FactSet, 11/29/2024 and 12/31/24, <https://www.factset.com/data-attribution>.

covering Units approved for trading under Rule 4.3, Interpretation and Policy .06(b)(1), in accordance with the terms of paragraphs (a), (b), and (c) of Rule 4.4, Interpretation and Policy .01; (2) in the case of options covering Units approved for trading under Rule 4.3 Interpretation and Policy .06(b)(2) (as is the case for the Ethereum Funds), following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange and are defined as an NMS stock, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on each Ethereum Fund will be physically settled contracts with American-style exercise.<sup>17</sup> Consistent with current Rule 4.5, which governs the opening of options series on a specific underlying security (including Units), the Exchange will open at least one expiration month for options on each Ethereum Fund<sup>18</sup> at the commencement of trading on the Exchange and may

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<sup>17</sup> See Rule 4.2, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation (“OCC”); and Equity Options Product Specifications January 3, 2024), available at Equity Options Specifications (cboe.com); see also OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

<sup>18</sup> See Rule 4.5(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 4.3. Monthly listings expire the third Friday of the month. The term “expiration date” (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. See OCC By-Laws Article I, Section 1. Pursuant to Rule 4.5(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

also list series of options on a Ethereum Fund for trading on a weekly,<sup>19</sup> monthly,<sup>20</sup> or quarterly<sup>21</sup> basis. The Exchange may also list long-term equity option series (“LEAPS”) that expire from 12 to 180 months from the time they are listed.<sup>22</sup>

Pursuant to Rule 4.5, Interpretation and Policy .07, which governs strike prices of series of options on Units, the interval of strikes prices for series of options on Ethereum Funds will be \$1 or greater when the strike price is \$200 or less and \$5 or greater where the strike price is over \$200.<sup>23</sup> Additionally, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>24</sup> the \$0.50 Strike Program,<sup>25</sup> the \$2.50 Strike Price Program,<sup>26</sup> and the \$5 Strike Program.<sup>27</sup> Pursuant to Rule 5.4, where the price of a series of an Ethereum Fund option is less than \$3.00, the minimum increment will be \$0.05, and where the price is \$3.00 or higher, the minimum increment will be \$0.10.<sup>28</sup> Any and all new series of Ethereum Fund options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 4.5 and 5.4, as applicable.

Ethereum Fund options will trade in the same manner as any other Unit options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will

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<sup>19</sup> See Rule 4.5(d).

<sup>20</sup> See Rule 4.5(g).

<sup>21</sup> See Rule 4.5(e).

<sup>22</sup> See Rule 4.5(f).

<sup>23</sup> The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Monthly Options Series Program, and the Quarterly Options Series Program, Rules 4.5(d), (e), and (g) specifically sets forth intervals between strike prices on Quarterly Options Series, Short Term Option Series, and Monthly Options Series, respectively.

<sup>24</sup> See Rule 4.5, Interpretation and Policy .01(a).

<sup>25</sup> See Rule 4.5, Interpretation and Policy .01(b).

<sup>26</sup> See Rule 4.5, Interpretation and Policy .04.

<sup>27</sup> See Rule 4.5, Interpretation and Policy .01(f).

<sup>28</sup> If options on an Ethereum Fund are eligible to participate in the Penny Interval Program, the minimum increment will be \$0.01 for series with a price below \$3.00 and \$0.05 for series with a price at or above \$3.00. See 5.4(d) (which describes the requirements for the Penny Interval Program).

apply to the listing and trading of Ethereum Funds options on the Exchange in the same manner as they apply to other options on all other Units that are listed and traded on the Exchange, including the precious-metal backed commodity Units and the Bitcoin Funds already deemed appropriate for options trading on the Exchange pursuant to current Rule 4.3, Interpretation and Policy .06(a)(4).

Rule 4.20 currently permits the Exchange to authorize for trading a FLEX option class on any equity security if it may authorize for trading a non-FLEX option class on that equity security pursuant to Rule 4.3. The proposed rule change amends Rule 4.20 to exclude the Ethereum Funds from this provision.

Position and exercise limits for options on ETFs, including options on Ethereum Funds, are determined pursuant to Rules 8.30 and 8.42, respectively. Position and exercise limits for ETF options vary according to the number of outstanding shares and the trading volumes of the underlying ETF over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization ETFs have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, recapitalizations, etc.) on the same side of the market.

The Exchange proposes to amend Rule 8.30. Specifically, the Exchange proposes to amend Rule 8.30, Interpretation and Policy .10 to provide a position limit of 25,000 same side option contracts for each Ethereum Fund option. Additionally, pursuant to Rule 8.42, Interpretation and Policy .02, the exercise limits for options on each Ethereum Fund will be equivalent to this proposed position limit.

In considering the appropriate position and exercise limits for the Ethereum Funds, the Exchange reviewed the data presented by NYSE American in its filing with respect to the Bitwise Fund, the Grayscale Fund and the Grayscale Mini Fund.<sup>29</sup> NYSE American aggregated market

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<sup>29</sup> See NYSE American Proposal.

capitalization, volume, and shares outstanding data of the Ethereum Funds and compared that data to those of other ETFs, and compared the proposed position limit of the Ethereum Funds to the position limits of the options overlying those other ETFs. The Exchange reviewed NYSE American's data that demonstrated that each of these three Bitcoin Funds would easily qualify for much higher position limits available to other ETFs and ETPs pursuant to the criterion in Rule 8.30, Interpretation and Policy .02.<sup>30</sup>

As noted above, Exchange Rules set forth position (and exercise) limits for options, which vary according to the number of shares outstanding and the amount of trading in underlying during the most recent six-month period.<sup>31</sup> Although the Ethereum Funds have been trading for less than six months [sic], the trading volume in each Fund is sufficient to qualify the Funds for position limits in excess of the proposed 25,000-contract limit, as shown below.<sup>32</sup>

Ethereum Fund	Total Volume
Grayscale Fund	427,312,540 (7/23/24 - 11/29/24)
Grayscale Mini Fund	172,400,020 (7/23/24 - 11/29/24)
Bitwise Fund	44,477,060 (7/23/24 - 12/31/24)

Based on this trading volume, the most-recent trading volume in the Grayscale Fund and the Grayscale Mini Fund well exceeds the requisite minimum of 100,000,000 shares necessary to qualify for the 250,000-contract position and exercise limits.<sup>33</sup> By comparison, the underlying of

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<sup>30</sup> See Rule 8.30, Interpretation and Policy .02.

<sup>31</sup> See Rule 8.30, Interpretation and Policy .02.

<sup>32</sup> See FactSet, 11/29/2024 and 12/31,24, <https://www.factset.com/data-attribution>.

<sup>33</sup> Rule 8.30, Interpretation and Policy .02(e) states that to be eligible for the 250,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 100,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 75,000,000 shares and the underlying security must have at least 300,000,000 currently

other options with six-month trading volume less than the volumes in the table above are eligible for position and exercise limits of at least 250,000.<sup>34</sup> Further, the most-recent trading volume for the Bitwise Fund well exceeded the requisite minimum of 40,000,000 shares necessary to qualify for the 75,000-contract position (and exercise) limit, which is three times the proposed 25,000- contract limit.<sup>35</sup> Finally, the proposed 25,000-contract position limit is the default for options that do not otherwise qualify for a higher limit and is therefore an adequate limit for each Ethereum Fund.<sup>36</sup>

Second, with respect to the outstanding shares of these three Ethereum Funds, the Exchange reviewed NYSE American’s data regarding the outstanding shares of each of these Ethereum Funds. NYSE American performed an exercise to demonstrate that if a market participant held the maximum number of contracts possible pursuant to the proposed position and exercise limits (25,000 contracts), the equivalent shares represented by the proposed position and exercise limits (2,500,000 shares) would represent the following approximate percentage of outstanding shares as of November 29, 2024:

Ethereum Fund	Proposed Position/Exercise Limits in Equivalent Shares	Outstanding Shares	Percentage of Outstanding Shares
Grayscale Fund	2,500,000	177,838,500	1.4%
Grayscale Mini Fund	2,500,000	45,220,787	5.5%
Bitwise Fund	2,500,000	16,600,000	15.1%

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outstanding.

<sup>34</sup> See <https://www.theocc.com/Market-Data/Market-Data-Reports/Series-and-Trading-Data/Series-Search> (including the following symbols that have a position limit of 250,000: GLD, IAU, SLV, SIVR, SGOL).

<sup>35</sup> Rule 8.30, Interpretation and Policy .02(c) states that to be eligible for the 75,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 40,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 30,000,000 shares and the underlying security must have at least 120,000,000 currently outstanding.

<sup>36</sup> Rule 8.30, Interpretation and Policy .02(a) states that the 25,000 option contract limit applies to those options having an underlying security that does not meet the requirements for a higher option contract limit.

As this table demonstrates, if a market participant held the maximum permissible options positions in one of the Ethereum Fund options and exercised all of them at the same time, that market participant would control a small percentage of the outstanding shares of the underlying Ethereum Fund. For example, as noted above, a position limit of 25,000 same side contracts effectively restricts a market participant from holding positions that could result in the receipt of no more than 2,500,000 shares of the applicable Ethereum Fund (if that market participant exercised all its options). NYSE American used the number of shares outstanding for each Ethereum Fund as of November 29, 2024, and calculated the approximate number of market participants that could hold the maximum of 25,000 same side positions in each Ethereum Fund that would equate to the number of shares outstanding of that Ethereum Fund:

Bitcoin Fund	Outstanding Shares	Number of Market Participants with 25,000 Same Side Positions
Grayscale Fund	177,838,500	71
Grayscale Mini Fund	45,220,787	18
Bitwise Fund	16,600,000	7

This means if 71 market participants had 25,000 same side positions in options on the Grayscale Fund, each of them would have to simultaneously exercise all of those options to create a scenario that may put the underlying security under stress. Similarly, this means if 18 market participants had 25,000 same side positions in options on the Grayscale Mini Fund, each of them would have to simultaneously exercise all of those options to create a scenario that may put the underlying security under stress. Finally, this means if 7 market participants had 25,000 same side positions in options on the Bitwise Fund, each of them would have to simultaneously exercise all of those options to create a scenario that may put the underlying security under stress. The Exchange believes it is highly unlikely for this to occur; however, even if such event did occur, the Exchange would not

expect any of the Ethereum Fund to be under stress because such an event would merely induce the creation of more shares through the trust's creation and redemption process.

NYSE American also performed an exercise to compare the size of the proposed position limit to the market capitalization of the Ethereum market given that the issuer of each of these three Ethereum Funds may create and redeem shares that represent an interest in Ethereum. NYSE American took the global supply of Ethereum, which was 120.44 million and the price of one Ethereum, which was approximately \$3,593.49,<sup>37</sup> which equates to a market capitalization of approximately \$439.78 billion. Consider the proposed position and exercise limit of 25,000 option contracts for each Ethereum Fund option. A position and exercise limit of 25,000 same side contracts effectively restricts a market participant from holding positions that could result in the receipt of no more than 2,500,000 shares of the Grayscale Fund, Grayscale Mini Fund, and Bitwise Fund, as applicable (if that market participant exercised all its options). NYSE American considered the share price of each Bitcoin Fund on November 29, 2024 and calculated the value of 2,500,000 shares of the Ethereum Fund at that price, and the approximate percentage of that value of the size of the Ethereum market:

Bitcoin Fund	Share Price (\$)	Value of 2,500,000 Shares	Percentage of Bitcoin Market
Grayscale Fund	30.15	75,250,000	0.017%
Grayscale Mini Fund	33.84	84,600,000	0.020%
Bitwise Fund	25.80	64,500,000	0.015%

Therefore, if a market participant with the maximum 25,000 same side contracts in options on the Grayscale Fund, the Grayscale Mini Fund, or the Bitwise Fund exercised all positions at one time, such an event would have no practical impact on the Ethereum market.

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<sup>37</sup> See <https://finance.yahoo.com/quote/ETH-USD/history>.

The Exchange also reviewed NYSE American’s data regarding the market capitalization of each of these three Ethereum Funds relative to the market capitalization of the entire Ethereum market, as of November 29, 2024:

	Ethereum/Shares Outstanding	Market Value (\$)	% of Total Bitcoin Market
Total Ethereum Market	120,440,000	432,799,935,600	100
Grayscale Fund	177,838,500	5,425,852,635	1.25
Grayscale Mini Fund	45,220,787	1,547,003,157	0.36
Bitwise Fund	16,600,000	430,886,200	0.10

As this data gathered by NYSE American demonstrates, the Ethereum Funds collectively represent approximately 1.71% of the global supply of Ethereum (120,440,000).<sup>38</sup> Based on the \$30.15 price of a Grayscale Fund share on November 29, 2024, a market participant could have redeemed one Ethereum for approximately 119 Grayscale Fund shares. Another 14,354,890,070 Grayscale Fund shares could be created before the supply of Ethereum was exhausted. As a result, 5,742 market participants would have to simultaneously exercise 25,000 same side positions in Grayscale Fund options to receive shares of the Grayscale Fund holding the entire global supply of Ethereum. Similarly, based on the \$33.84 price of a Grayscale Mini Fund share on November 29, 2024, a market participant could have redeemed one Ethereum for approximately 106 Grayscale Mini Fund shares. Another 12,789,596,206 Grayscale Mini Fund shares could be created before the supply of Ethereum was exhausted. As a result, 5,116 market participants would have to simultaneously exercise 25,000 same side positions in Grayscale Mini Fund options to receive shares of Grayscale Mini Fund holding the entire global supply of Ethereum. Similarly, based on the \$25.80 price of a Bitwise Fund share on November 29, 2024, a market participant could have

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See id.

redeemed one Ethereum for approximately 139 Bitwise Fund shares. Another 16,775,191,302 Bitwise Fund shares could be created before the supply of Ethereum was exhausted. As a result, 6,710 market participants would have to simultaneously exercise 25,000 same side positions in Bitwise Fund options to receive shares of Bitwise Fund holding the entire global supply of Ethereum. Unlike the Ethereum Funds, the number of shares that corporations may issue is limited. However, like corporations, which authorize additional shares, repurchase shares, or split their shares, the Ethereum Funds may create, redeem, or split shares in response to demand. The supply of Ethereum is larger than the available supply of most securities.<sup>39</sup> Given the significant unlikelihood of any of these events ever occurring, the Exchange does not believe options on the Ethereum Funds should be subject to position and exercise limits even lower than those proposed (which are already equal to the lowest available limit for equity options in the industry) to protect the supply of Ethereum.

NYSE American compared the proposed position limits to the position limit of CME Ethereum futures. The Chicago Mercantile Exchange (“CME”) imposes a position limit of 8,000 futures (for the initial spot month) on its ethereum futures contract.<sup>40</sup> On November 29, 2024, CME Jan 25 Ethereum Futures settled at \$3,629.69. A position of 8,000 CME Ethereum futures, therefore, would have a notional value of \$1,451,876,000. The following table shows the share price of each Ethereum Fund on November 29, 2024, and the approximate number of option contracts that equates to that notional value:

Ethereum Fund	Share Price (\$)	Number of Option Contracts
Grayscale Fund	30.15	481,551
Grayscale Mini Fund	33.84	429,041

<sup>39</sup> The market capitalization of ethereum would rank in the top 20 among securities. See <https://companiesmarketcap.com/usa/largest-companies-in-the-usa-by-market-cap/>.

<sup>40</sup> See CME Rulebook Chapter 349 (description of CME ether futures) and Chapter 5, Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices. Each CME ether futures contract is valued at fifty ethers as defined by the CME CF Ether Reference Rate (“ERR”). See CME Rulebook Chapter 349.

Bitwise Fund	25.80	562,743
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The approximate number of option contracts for each Ethereum Fund that would equate to the notional value of CME Ethereum futures is significantly higher than the proposed limit of 25,000 options contract for each Ethereum Fund option. The fact that many options ultimately expire out-of-the-money and thus are not exercised for shares of the underlying, while the delta of an Ethereum future is 1, further demonstrates how conservative the proposed limits of 25,000 options contracts are for the Ethereum Fund options.

The Exchange notes, again, unlike options contracts, CME position limits are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts according to an aggregation ratio(s).<sup>41</sup> Therefore, if a portfolio includes positions in options on futures, CME would aggregate those positions into the underlying futures contracts in accordance with a table published by CME on a delta equivalent value for the relevant spot month, subsequent spot month, single month and all month position limits.<sup>42</sup> If a position exceeds position limits because of an option assignment, CME permits market participants to liquidate the excess position within one business day without being considered in violation of its rules. Additionally, if at the close of trading, a position that includes options exceeds position limits for futures contracts, when evaluated using the delta factors as of that day's close of trading but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation. Considering CME's position limits on futures for Ethereum, the Exchange believes that that the proposed same side position limits are more than appropriate for the Ethereum options.

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<sup>41</sup> See CME Rulebook Chapter 5, Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices.

<sup>42</sup> Id.

Consistent with its position regarding the irrelevance of bitcoin supply to position limits for options on bitcoin ETPs, the Exchange likewise believes the available supply of Ethereum is not relevant to the determination of position and exercise limits for Ethereum Fund options.<sup>43</sup> Position and exercise limits are not a tool that should be used to address a potential limited supply of the underlying of an underlying. Position and exercise limits do not limit the total number of options that may be held, but rather they limit the number of positions a single customer may hold or exercise at one time.<sup>44</sup> “Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise.”<sup>45</sup> Position and exercise limit rules are intended “to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.”<sup>46</sup>

The Exchange notes that a Registration Statement on Form S-1 was filed with the Commission for each Ethereum Fund, each of which described the supply of Ethereum as being

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<sup>43</sup> The Exchange is unaware of any proposed rule change related to position and exercise limits for any equity option (including commodity ETF options) for which the Commission required consideration of whether the available supply of an underlying (whether it be a corporate stock or an ETF) or the contents of an ETF (commodity or otherwise) should be considered when an exchange proposed to establish those limits. See, e.g., Securities Exchange Act Release No. 57894 (May 30, 2008), 73 FR 32061 (June 5, 2008) (SR-CBOE-2005-11) (approval order in which the Commission stated that the “listing and trading of Gold Trust Options will be subject to the exchanges’ rules pertaining to position and exercise limits and margin”). The Exchange notes when the Commission approved this filing, the position limits in Rule 8.30 were the same as they are today. For reference, the current position and exercise limits for options on SPDR Gold Shares ETF (“GLD”) and options on iShares Silver Trust (“SLV”) are 250,000 contracts, or 10 times that proposed position and exercise limit for the Bitcoin Fund options.

<sup>44</sup> For example, suppose an option has a position limit of 25,000 option contracts and there are a total of 10 investors trading that option. If all 10 investors max out their positions, that would result in 250,000 option contracts outstanding at that time. However, suppose 10 more investors decide to begin trading that option and also max out their positions. This would result in 500,000 option contracts outstanding at that time. An increase in the number of investors could cause an increase in outstanding options even if position limits remain unchanged.

<sup>45</sup> See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

<sup>46</sup> Id.

unlimited.<sup>47</sup> Each Registration Statement permits an unlimited number of shares of the applicable Ethereum Fund to be created. Further, the Commission approved proposed rule changes that permitted the listing and trading of shares of each Ethereum Fund, which approval did not comment on the sufficient supply of Ethereum or address whether there was a risk that permitting an unlimited number of shares for a Ethereum Fund would impact the supply of ether.<sup>48</sup> Therefore, the Exchange believes the Commission had ample time and opportunity to consider whether the supply of ethereum was sufficient to permit the creation of unlimited Ethereum Fund shares, and does not believe considering this supply with respect to the establishment of position and exercise limits is appropriate given its lack of relevance to the purpose of position and exercise limits. However, given the significant size of the Ethereum supply, the proposed positions limits are more than sufficient to protect investors and the market.

All of the above information demonstrates that the proposed position and exercise limits for the Ethereum Fund options are more than reasonable and appropriate. The trading volume, ADV, and outstanding shares of each Ethereum Fund demonstrate that these funds are actively traded and widely held, and proposed position and exercise limits are well below those of other ETFs with similar market characteristics. The proposed position and exercise limits are the lowest position and exercise limits available for equity options in the industry, are extremely conservative, and are more than appropriate given each Ethereum Fund's market capitalization and ADV. The proposed position and exercise limits reasonably and appropriately balance the liquidity provisioning in the market against the prevention of manipulation. The Exchange believes these proposed limits are effectively designed to prevent an individual customer or entity from establishing options positions

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<sup>47</sup> See, e.g., Grayscale Fund Form S-1 Registration Statement, at p. 77, <https://www.sec.gov/Archives/edgar/data/2020455/000119312524106957/d756153ds1.htm>; Grayscale Mini Fund Amendment No. 5 to Form S-1 Registration Statement, at p. 79, <https://www.sec.gov/Archives/edgar/data/2020455/000119312524181081/d756153ds1a.htm>; and Bitwise Fund Form S-1 Registration Statement 1, at p. 17, [https://www.sec.gov/Archives/edgar/data/2013744/000199937124007581/bitwise-s1a\\_061824.htm](https://www.sec.gov/Archives/edgar/data/2013744/000199937124007581/bitwise-s1a_061824.htm) (“Ethereum Funds Reg. Stmts.”).

<sup>48</sup> See Ethereum ETP Approval Order.

that could be used to manipulate the market of the underlying Ethereum Funds as well as the Ethereum market.<sup>49</sup>

Today, the Exchange has an adequate surveillance program in place for options. Cboe intends to apply those same program procedures to options on the Ethereum Funds that it applies to the Exchange's other options products, including options on the Bitcoin Funds.<sup>50</sup> Cboe's market surveillance staff would have access to the surveillances conducted by Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.<sup>51</sup> with respect to the Ethereum Funds and would review activity in the underlying Ethereum Funds when conducting surveillances for market abuse or manipulation in the options on the Ethereum Funds. Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. In addition to obtaining information from its affiliated markets, the Exchange would be able to obtain information regarding trading in shares of the Ethereum Funds from their primary listing markets and from other markets that trade shares of the Ethereum Funds through ISG. In addition, Cboe has a Regulatory Services Agreement with the Financial Industry Regulatory Authority ("FINRA") for certain market surveillance, investigation and examinations functions. Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate amongst themselves and FINRA responsibilities to conduct certain options-related market surveillance that are common to rules of all options exchanges.<sup>52</sup>

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<sup>49</sup> See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

<sup>50</sup> The surveillance program includes surveillance patterns for price and volume movements as well as patterns for potential manipulation (e.g., spoofing and marking the close).

<sup>51</sup> Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc. are affiliated markets of the Exchange.

<sup>52</sup> Section 19(g)(1) of the Act, among other things, requires every self-regulatory organization ("SRO") registered as a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO ("common members"). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the

The underlying shares of spot Ethereum ETPs, including the Ethereum Funds, are also subject to safeguards related to addressing market abuse and manipulation. As the Commission stated in its order approving proposals of several exchanges to list and trade shares of spot Ethereum -based ETPs, “[e]ach Exchange has a comprehensive surveillance-sharing agreement with the [CME] via their common membership in the Intermarket Surveillance Group. This facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the CME ethereum futures market.”<sup>53</sup> The Exchange states that, given the consistently high correlation between the CME Ethereum futures market and the spot bitcoin market, as confirmed by the Commission through robust correlation analysis, the Commission was able to conclude that such surveillance sharing agreements could reasonably be “expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Ethereum ETPs].”<sup>54</sup> In light of surveillance measures related to both options and futures as well as the underlying Ethereum Funds,<sup>55</sup> the Exchange believes that existing surveillance procedures are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading the proposed options on the Ethereum Funds. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Ethereum ETPs.

Finally, quotation and last sale information for ETFs is available via the Consolidated Tape Association (“CTA”) high speed line. Quotation and last sale information for such securities is also available from the exchange on which such securities are listed. Quotation and last sale information for options on Ethereum Funds will be available via OPRA and major market data vendors.

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Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

<sup>53</sup> See Ethereum ETP Approval Order, at 46938 (footnotes excluded).

<sup>54</sup> See *id.*

<sup>55</sup> See *id.*

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on Ethereum Funds up to the number of expirations currently permissible under the Rules.

The Exchange believes that offering options on Ethereum Funds will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of Ethereum and hedging vehicle to meet their investment needs in connection with Ethereum - related products and positions. The Exchange expects investors will transact in options on Ethereum Funds in the unregulated over-the-counter (“OTC”) options market,<sup>56</sup> but may prefer to trade such options in a listed environment to receive the benefits of trading listing options, including (1) enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Ethereum Fund options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The Units that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as Ethereum Funds and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any Unit options, including Units that hold commodities (i.e., precious metals and Bitcoin) that it currently lists and trades on the Exchange.

Finally, the Exchange notes that applicable Exchange rules will require that customers receive appropriate disclosure before trading options in Ethereum Funds.<sup>57</sup> Further, brokers

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<sup>56</sup> The Exchange understands from customers that investors have historically transacted in options on Units in the OTC options market if such options were not available for trading in a listed environment.

<sup>57</sup> See Rules 9.1(b) and (e).

opening accounts and recommending options transactions must comply with relevant customer suitability standards.<sup>58</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>59</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>60</sup> requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>61</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on the Ethereum Funds will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the Ethereum Funds will provide investors with a greater opportunity to realize the benefits of utilizing options on an ETF based on spot Ethereum, including cost efficiencies and increased hedging strategies.

The Exchange believes that offering options on a competitively priced ETF based on spot Ethereum will benefit investors by providing them with an additional, relatively lower-cost risk

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<sup>58</sup> See Rule 9.3.

<sup>59</sup> 15 U.S.C. 78f(b).

<sup>60</sup> 15 U.S.C. 78f(b)(5).

<sup>61</sup> Id.

management tool, allowing them to manage, more easily, their positions and associated risks in their portfolios in connection with exposure to spot Ethereum. Additionally, the Exchange's offering of Ethereum Fund options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. Today, the Exchange lists options on other commodity (including Ethereum [sic]) ETFs structured as a trust, which essentially offer the same objectives and benefits to investors, and for which the Exchange has not identified any issues with the continued listing and trading of options on those ETFs.

The Exchange also believes the proposal to permit options on the Ethereum Funds will remove impediments to and perfect the mechanism of a free and open market and a national market system, because options on the Ethereum Funds will comply with current Exchange Rules. Options on the Ethereum Funds must satisfy the initial listing standards and continued listing standards currently in the Rules, applicable to options on all ETFs, including options on other commodity ETFs already deemed appropriate for options trading on the Exchange pursuant to Rule 4.3, Interpretation and Policy .06(a)(d). Additionally, as demonstrated above, the Ethereum Funds are characterized by a substantial number of shares that are widely held and actively traded. Further, Rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits (as proposed herein), and margin requirements, will govern the listing and trading of options on the Ethereum Funds.

The Exchange believes the proposed position and exercise limits are designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade, as they are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. The proposed position and exercise limits for options on each of the Ethereum Funds is

25,000 contracts. These position and exercise limits are the lowest position and exercise limits available in the options industry, are extremely conservative and more than appropriate given each Ethereum Fund's market capitalization, ADV, and high number of outstanding shares. The proposed position limit, and exercise limit, is consistent with the Act as it addresses concerns related to manipulation and protection of investors because, as demonstrated above, the position limit (and exercise limit) is extremely conservative and more than appropriate given the Ethereum Funds are actively traded. In support of the proposed position and exercise limits for options on the Ethereum Funds are 25,000 contracts, the Exchange is citing the in depth analysis NYSE American did in their filing. As noted above, in NYSE American Proposal, NYSE American considered the: (1) applicable Ethereum Fund's market capitalization and ADV, and proposed position limit in relation to other securities; (2) market capitalization of the entire Ethereum market in terms of exercise risk and availability of deliverables; (3) proposed position limit by comparing it to position limits for derivative products regulated by the CFTC; and (4) supply of Ethereum. Based on the Exchange's review of these analyses, the Exchange believes that the setting position and exercise limits for options on each of the Ethereum Funds is 25,000 contracts is more than appropriate. The proposed position and exercise limits reasonably and appropriately balance the liquidity provisioning in the market against the prevention of manipulation. The Exchange believes these proposed limits are effectively designed to prevent an individual customer or entity from establishing options positions that could be used to manipulate the market of the underlying as well as the Ethereum market.<sup>62</sup>

The Exchange represents that it has the necessary systems capacity to support the new Ethereum Fund options. As discussed above, the Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading Unit options, including Ethereum Fund options. The

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<sup>62</sup> See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

Exchange's existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on ETFs and ETPs, such as (existing) precious metal-commodity backed ETP options as well as the proposed options on Ethereum Funds. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of options on Ethereum Funds in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange's market surveillance staff will have access to surveillances that it conducts, and that FINRA conducts on its behalf, with respect to the Ethereum Funds and, as appropriate, would review activity in the underlying Funds when conducting surveillances for market abuse or manipulation in the options on the Ethereum Funds. Additionally, the Exchange is a member of the ISG under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. In addition, the Exchange has a Regulatory Services Agreement with the FINRA and as noted herein, pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate regulatory responsibilities to FINRA to conduct certain options-related market surveillances. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on the Ethereum Funds.

The underlying shares of spot Ethereum ETPs, including the Ethereum Funds, are also subject to safeguards related to addressing market abuse and manipulation. As the Commission stated in its order approving proposals of several exchanges to list and trade shares of spot Ethereum-based ETPs, "[e]ach Exchange has a comprehensive surveillance-sharing agreement with the CME via their common membership in the Intermarket Surveillance Group. This facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the CME ether futures market."<sup>63</sup> The Exchange states that,

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<sup>63</sup> See Ethereum ETP Approval Order, 89 FR, at 46938.

given the consistently high correlation between the CME ethereum futures market and the spot ethereum market, as confirmed by the Commission through robust correlation analysis, the Commission was able to conclude that such surveillance sharing agreements could reasonably be “expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Ether ETPs].”<sup>64</sup> In light of the foregoing, the Exchange believes that existing surveillance procedures are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading the proposed options on the Ethereum Funds. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Ethereum ETPs.

The Exchange believes the proposed rule change to exclude the Ethereum Funds from being eligible for trading as FLEX options is consistent with the Act, because it will permit the Exchange to continue to participate in ongoing discussions with the Commission regarding appropriate position limits for ETF options.<sup>65</sup>

Finally, the Exchange notes that this proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because applicable Exchange rules will require that customers receive appropriate disclosure before trading options in Ethereum Funds<sup>66</sup> and will require that brokers opening accounts and recommending options transactions must comply with relevant customer suitability standards.<sup>67</sup>

#### B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

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<sup>64</sup> See Ethereum ETP Approval Order, 89 FR at 46941.

<sup>65</sup> The Exchange will submit a separate rule filing that would permit the Exchange to authorize for trading FLEX options on the Bitcoin [sic] Funds (which filing may propose changes to existing FLEX option position limits for such options if appropriate).

<sup>66</sup> See Rules 9.1(b) and (e).

<sup>67</sup> See Rule 9.3.

Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as the Ethereum Fund options will be equally available to all market participants who wish to trade such options and will trade generally in the same manner as other options. The Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, margin requirements, customer accounts, and trading halt procedures will apply to the listing and trading of Ethereum Funds options on the Exchange in the same manner as they apply to other options on all other Fund Shares that are listed and traded on the Exchange. Also, and as stated above, the Exchange already lists options on other commodity-based Units (including Bitcoin-based).<sup>68</sup> Further, the Ethereum Funds would need to satisfy the maintenance listing standards set forth in the Exchange Rules in the same manner as any other Unit for the Exchange to continue listing options on them.

The Exchange does not believe that the proposal to list and trade options on Ethereum Funds will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Ethereum Fund options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. The Exchange notes that listing and trading Ethereum Fund options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market.

The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition, as it is designed to increase competition for order flow on the

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<sup>68</sup> See Rule 4.3, Interpretation and Policy .06(a)(4).

Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Ethereum Fund options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with Ethereum prices and Ethereum-related products and positions on a listed options exchange.

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, as amended, 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-CBOE-2025-008 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-CBOE-2025-008. 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-CBOE-2025-008 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>69</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>69</sup> 17 CFR 200.30-3(a)(12).