



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102465; File No. SR-ISE-2025-08]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change to Amend Options 4, Section 3, Criteria for Underlying Securities

February 20, 2025

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 7, 2025, Nasdaq ISE, LLC (“ISE” or “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. 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

The Exchange proposes to amend Options 4, Section 3, Criteria for Underlying Securities to permit options on Commodity-Based Trust Shares.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/ise/rulefilings>, at the principal office of the Exchange, 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 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 its listing rules at ISE Options 4, Section 3, Criteria for Underlying Securities. Specifically, the Exchange proposes to amend the criteria for listing options on Exchange-Traded Fund Shares (“ETFs”) at Options 4, Section 3(h).

The Exchange proposes to allow the listing and trading of options on units that represent interests in a trust that in a Commodity-Based Trust. A Commodity-Based Trust is defined at The Nasdaq Stock Market LLC Rule 5711(d)(iv), NYSE Arca, Inc. Rule 8.201(c), and Cboe BZX Exchange, Inc. 14.11(e)(4) as a security that is issued by a trust that holds (i) a specified commodity deposited with the Trust, or (ii) a specified commodity and, in addition to such specified commodity, cash; (b) that is 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) that, 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 (“Commodity-Based Trust Share”).

At this time the Exchange proposes to amend its listing criteria at Options 4, Section 3(h)(iv) to provide that

(h) Securities deemed appropriate for options trading shall include shares or other securities (“Exchange-Traded Fund Shares”) that are traded on a national securities exchange and are defined as an “NMS” stock under Rule 600 of Regulation NMS, and that... or (iv) represent interests in (a) a security issued by a trust that holds (1) a specified commodity deposited with the trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is 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) that, 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 (“Commodity-Based Trust Share”).

ISE proposes to insert this rule text and remove references to the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Gold Trust, the

iShares Bitcoin Trust, the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the Grayscale Bitcoin Trust (BTC), the Grayscale Bitcoin Mini Trust BTC, and the Bitwise Bitcoin ETF which are all Commodity-Based Trust Shares. As a result of this amendment, the listing criteria would permit any Exchange-Traded Fund that is approved to list on the primary market as a Commodity-Based Trust Share to qualify for the listing of options on that Commodity-Based Trust Share, provided other listing criteria have been met.

The Exchange's initial listing standards as set forth in Options 4, Section 3(a), on which options may be listed and traded on the Exchange, will continue to apply in addition to Options 3, Section 3(h). Pursuant to Options 4, Section 3(a), a security (which includes an ETF) on which options may be listed and traded on the Exchange must be a security registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act, and the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

Options 4, Section 3(h)(1) requires that ETFs must either meet the criteria and guidelines set forth in Options 4, Section 3(a) and (b)³ or the ETFs are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue ETFs in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them 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 of the ETFs, all as described in the ETFs' prospectus.

³ Options 4, Section 3(h)(1) provides criteria and guidelines when evaluating potential underlying securities for the listing of options.

Additionally, a Commodity-Based Trust Share will also be subject to the Exchange's continued listing standards for options on ETFs set forth in Options 4, Section 4(g) for ETFs deemed appropriate for options trading pursuant to Options 4, Section 3(h). Specifically, options approved for trading pursuant to Options 4, Section 3(h) will not be deemed 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 such ETFs if the ETFs are delisted from trading as provided in subparagraph (b)(5) of Options 4, Section 4⁴ or the ETFs are halted or suspended from trading on their primary market.⁵ Additionally, options on ETFs may be subject to the suspension of opening transactions in any series of options of the class covering ETFs in any of the following circumstances:

(1) in the case of options covering Exchange-Traded Fund Shares approved pursuant to Options 4, Section 3(h)(A)(i), in accordance with the terms of subparagraphs (b)(1), (2), (3) and (4) of Options 4, Section 4;⁶

(2) in the case of options covering Fund Shares approved pursuant to Options 4, Section 3(h)(A)(ii),⁷ following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there were fewer than 50 record and/or beneficial holders of such Exchange-Traded Fund Shares for 30 or more consecutive trading days;

(3) the value of the index or portfolio of securities or non-U.S. currency, portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities and/or Financial Instruments and Money Market Instruments, on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or

⁴ Options 4, Section 4(b)(5) provides, if an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including 'when-issued' trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied.

⁵ See Options 4, Section 4(g).

⁶ Options 4, Section 4(b)(5)(1) through (4) provides, if: (1) there are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Act, (2) there are fewer than 1,600 holders of the underlying security, (3) the trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months, or (4) the underlying security ceases to be an 'NMS stock' as defined in Rule 600 of Regulation NMS under the Exchange Act. Options 4, Section 3(h)(i) refers to Financial Instruments and Money Market Instruments. In addition, the Exchange proposes to amend the citation to "Options 4, Section 3(h)(A)(i)" herein to "Options 4, Section 3(h)(i)."

⁷ Options 4, Section 3(h)(ii) refers to Currency Trust Shares. In addition, the Exchange proposes to amend the citation to "Options 4, Section 3(h)(A)(ii)" herein to "Options 4, Section 3(h)(ii)."

(4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Consistent with current Options 4, Section 5, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange would open at least one expiration month⁸ for options on a Commodity-Based Trust Share and may also list series of options on Commodity-Based Trust Share for trading on a weekly⁹ or quarterly¹⁰ basis. The Exchange may also list long-term equity option series (“LEAPS”) that expire from twelve to thirty-nine months from the time they are listed.¹¹

Pursuant to Options 4, Section 5(d), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on a Commodity-Based Trust Share would be \$1 or greater when the strike price is \$200 or less and \$5 or greater when the strike price is greater than \$200.¹² Additionally, the Exchange may list series of options pursuant to the

⁸ See Options 4, Section 5(b). At the commencement of trading on the Exchange of a particular class of options, the Exchange will open a minimum of one (1) series of options in that class. The exercise price of that series will be fixed at a price per share, relative to the underlying stock price in the primary market at about the time that class of options is first opened for trading on the Exchange. The monthly expirations are subject to certain listing criteria for underlying securities described within Options 4, Section 5. 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 Options 4, Section 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. The opening of a new series of options shall not affect the series of options of the same class previously opened. 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 the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the second business day prior to expiration.

⁹ See Supplementary .03 to Options 4, Section 5.

¹⁰ See Supplementary .04 to Options 4, Section 5.

¹¹ See Options 4, Section 8.

¹² See Options 4, Section 5(h). The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Quarterly Options Series Program, and the Monthly Options Series Program, Supplementary Material .03, .04 and .08 to Options 4, Section 5 specifically sets forth intervals between strike prices on Short Term Option Series, Quarterly Options Series, and Monthly Options Series, respectively.

\$1 Strike Price Interval Program,¹³ the \$0.50 Strike Program,¹⁴ the \$2.50 Strike Price Program,¹⁵ and the \$5 Strike Program.¹⁶ Pursuant to Options 3, Section 3, where the price of a series of options on a Commodity-Based Trust Share 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 \$0.10.¹⁷ Any and all new series of options on a Commodity-Based Trust Share that the Exchange lists would be consistent and comply with the expirations, strike prices, and minimum increments set forth in Options 4, Section 5 and Options 3, Section 3, as applicable.

Options on a Commodity-Based Trust Share will trade in the same manner as options on other ETFs on the Exchange. The Exchange Rules that currently apply to the listing and trading of all options on ETFs on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures would apply to the listing and trading of options on a Commodity-Based Trust Share on the Exchange in the same manner as they apply to other options on all other ETFs that are listed and traded on the Exchange.

Position and exercise limits for options on a Commodity-Based Trust Share would be determined pursuant to Options 9, Sections 13 and 15, respectively. Position and exercise limits for ETFs 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

¹³ See Supplementary Material .01 to Options 4, Section 5.

¹⁴ See Supplementary Material .05 to Options 4, Section 5.

¹⁵ See Supplementary Material .02 to Options 4, Section 5.

¹⁶ See Supplementary Material .06 to Options 4, Section 5.

¹⁷ If options on a Commodity-Based Trust Share are eligible to participate in the Penny Interval Program, the minimum increment would 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 Supplementary Material .01 to Options 3, Section 3 (which describes the requirements for the Penny Interval Program).

contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. Further, Options 6C, Section 3, which governs margin requirements applicable to the trading of all options on the Exchange including options on ETFs, will also apply to the trading of options on a Commodity-Based Trust Share.

The Exchange represents that the same surveillance procedures applicable to all other options on other ETFs currently listed and traded on the Exchange will apply to options on a Commodity-Based Trust Share, and that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading options on ETFs, including any options on a Commodity-Based Trust Share. Also, the Exchange may obtain information from CME Group Inc.'s designated contract markets that are members of the Intermarket Surveillance Group ("ISG") related to a financial instrument that is based, in whole or in part, upon an interest in or performance of a commodity, as applicable.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority or "OPRA" have the necessary systems capacity to handle the additional traffic associated with the listing of new series of ETFs, including options on a Commodity-Based Trust Share, up to the number of expirations currently permissible under the Exchange Rules.

The ETFs 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 options on a Commodity-Based Trust Share 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 ETF options, including ETFs that hold commodities (i.e., precious metals) that it currently lists and trades on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ 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 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)²⁰ 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 amend the listing criteria at Options 4, Section 3(h), with respect to ETFs, to permit the listing and trading of any option on a Commodity-Based Trust Share, without the need for additional approvals, 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 it would allow the Exchange to immediately list and trade options on any Commodity-Based Trust Share, provided the initial listing criteria has been met, without any additional approvals from the Commission. Commodity-Based Trust Shares are securities approved for trading with the Commission. The Exchange believes that with this proposal it will be able to offer options on a Commodity-Based Trust Share soon after the listing of such underlying security in the primary market, provided the initial listing criteria has been met, thereby availing market participants of the opportunity to hedge their positions in the ETF in a timely manner. This proposal would permit options on Commodity-Based Trust

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ 15 U.S.C. 78(f)(b)(5).

Shares to be listed on the Exchange in the same manner as all other securities that are subject to the current listing criteria in Options 4, Section 3. The Exchange notes that the majority of ETFs are able to list and trade options once the initial listing criteria have been met without the need for additional approvals. The proposed rule change would allow options on a Commodity-Based Trust Share to likewise list and trade options once the initial listing criteria have been met without the need for additional approvals.

Offering options on Commodity-Based Trust Shares provides investors with the ability to hedge exposure to the underlying security similar to options on any other securities. Options on Commodity-Based Trust Shares benefits investors, similar to the listing of any other option on an ETF, by providing investors with a relatively lower-cost risk management tool, to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of a commodity. Additionally, options on a Commodity-Based Trust Share 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 increases market transparency and enhances the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists options on other commodity-based ETFs,²¹ which, as described above, are trusts structured as Commodity-Based Trust Shares. The Exchange has not identified any issues with the continued listing and trading of options on Commodity-Based Trust Shares it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on a Commodity-Based Trust Share must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including ETFs

²¹ See Options 4, Section 3(h)(iv).

that hold other commodities already deemed appropriate for options trading on the Exchange. Options on a Commodity-Based Trust Share would trade in the same manner as any other ETF options — the same Exchange Rules that currently govern the listing and trading of all ETF options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on a Commodity-Based Trust Share in the same manner.

The Exchange represents that it has the necessary systems capacity to support the listing and trading of options on Commodity-Based Trust Shares as the Exchange lists these products today, expect that it requires additional approvals prior to listing. 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 of these ETF options.

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 Exchange does not believe that the proposal to amend the listing criteria at Options 4, Section 3(h), with respect to ETFs, to permit the listing and trading of any option on a Commodity-Based Trust Share, without the need for additional approvals, will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as options on Commodity-Based Trust Shares would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other ETF before the Exchange could list options on them. Additionally, options on Commodity-Based Trust Shares will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on ETFs on the Exchange will apply in the same manner to the listing and trading of all options on Commodity-Based Trust Shares.

Additionally, the Exchange notes that listing and trading options on a Commodity-Based

Trust Share 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 Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios in a timely manner.

The Exchange does not believe that the proposal to amend the listing criteria at Options 4, Section 3(h), with respect to ETFs, to permit the listing and trading of any option on a Commodity-Based Trust Share, without the need for additional approvals, will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on a Commodity-Based Trust Share.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

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 (i) as the Commission may designate up to 90 days of such date 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 shall: (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. Please include file number SR-ISE-2025-08 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-ISE-2025-08. 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-ISE-2025-08 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.²²

Sherry R. Haywood,

Assistant Secretary.

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