



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103865; File No. SR-NASDAQ-2025-042]

Self-Regulatory Organizations; Nasdaq Stock Market LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to List and Trade Shares of the 21Shares SUI ETF under Nasdaq Rule 5711(d) (Commodity Based Trust Shares)

September 4, 2025.

I. Introduction

On May 23, 2025, The Nasdaq Stock Market LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the 21Shares SUI ETF (“Trust”) under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares). The proposed rule change was published for comment in the Federal Register on June 10, 2025.³

On July 22, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ This order institutes proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 103187 (June 4, 2025), 90 FR 24433 (“Notice”). The Commission has received no comments on the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 103523, 90 FR 35355 (July 25, 2025). The Commission designated September 8, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

II. Summary of the Proposal

As described in more detail in the Notice,⁷ the Exchange proposes to list and trade the Shares of the Trust under Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

According to the Exchange, the investment objective of the Trust is to seek to track the performance of SUI,⁸ as measured by the performance of the CME CF SUI—Dollar Reference Rate—New York Variant (“Pricing Benchmark”), adjusted for the Trust’s expenses and other liabilities.⁹ In seeking to achieve its investment objective, the Trust will hold SUI and will value its Shares daily as of 4:00 p.m. ET based on the Pricing Benchmark.¹⁰ When the Trust sells or redeems its Shares, it will do so in cash with authorized participants in blocks of 10,000 Shares.¹¹

III. Proceedings to Determine Whether to Approve or Disapprove SR-NASDAQ-2025-042 and Grounds for Disapproval under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹² to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has

⁷ See Notice, supra note 3.

⁸ The Exchange states that SUI is a digital asset that is created and transmitted through the operations of the “SUI Network,” an online, distributed computing platform that operates on a peer-to-peer basis. See Notice at 24434.

⁹ See id. at 24433. 21Shares US LLC is the sponsor of the Trust and CSC Delaware Trust Company is the trustee. Each of BitGo New York Trust Company, LLC and Coinbase Custody Trust Company, LLC will be responsible for the custody of the Trust’s SUI. See id.

¹⁰ See id. at 24434. The Pricing Benchmark is calculated by CF Benchmarks Ltd. based on an aggregation of executed trade flow of major SUI trading platforms. See id. at 24433.

¹¹ See id. at 24433-34.

¹² 15 U.S.C. 78s(b)(2)(B).

reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,¹³ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices" and "to protect investors and the public interest."¹⁴

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the proposal to list and trade Shares of the Trust, which would hold SUI, is designed to prevent fraudulent and manipulative acts and practices or raises any new or novel concerns not previously contemplated by the Commission.

IV. Procedure: Request for Written Comments

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

¹³ Id.

¹⁴ 15 U.S.C. 78f(b)(5).

presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹⁵

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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-NASDAQ-2025-042 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-NASDAQ-2025-042. 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 filing 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

¹⁵ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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-NASDAQ-2025-042 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Rebuttal comments should be submitted by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,

Assistant Secretary.

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