



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106577; File No. SR-CboeBZX-2026-065]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change to List and Trade Shares of the 3x Gold ETF, 3x Silver ETF, 3x Bitcoin ETF, 3x Ether ETF, 3x Crude Oil ETF, and 3x Natural Gas ETF, Each a Series of the VS Trust, under BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares)

October 2, 2026.

I. INTRODUCTION

On August 10, 2026, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) 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 3x Gold ETF, 3x Silver ETF, 3x Bitcoin ETF, 3x Ether ETF, 3x Crude Oil ETF, and 3x Natural Gas ETF (each, a “Fund” and collectively the “Funds”), each a series of the VS Trust (“Trust”), under BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares).³ The proposed rule change (“Proposal”) was published for comment in the Federal Register on August 19, 2026.⁴ This order approves the Proposal.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms not defined herein are defined in the Exchange’s rules.

⁴ See Securities Exchange Act Release No. 106137 (Aug. 14, 2026), 91 FR 53686 (“Notice”). The Commission has received no comments on the Proposal.

⁵ As used in this order, the term exchange-traded funds (“ETFs”) refers to open-end funds that register the offer and sale of their shares under the Securities Act of 1933 (“Securities Act”) and are regulated as investment companies under the Investment Company Act of 1940 (“1940 Act”). The term “ETPs” refers to exchange traded products that register the offer and sale of their shares under the Securities Act but are not regulated under the 1940 Act, such as Commodity-Based Trust Shares and exchange-traded notes (“ETNs”). ETNs are unsecured debt obligations issued by financial institutions that pay a return based on the performance of a reference asset or benchmark but do not own an underlying portfolio of assets. See <https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-bulletins-50>. Although each Fund has “ETF” in its name, the Funds are Commodity-Based Trust Shares and therefore ETPs.

II. DESCRIPTION OF THE PROPOSAL

As described in more detail in the Notice,⁶ the Exchange proposes to list and trade the Shares of each of the Funds under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange. According to the Exchange, each Fund seeks daily investment results, before fees and expenses, that correspond to three times (3x) the daily performance of each of the following: gold, silver, bitcoin, ether, light sweet crude oil, and natural gas (for each Fund, the “Reference Commodity”), as measured by the daily changes in the price of a specified portfolio of first- and second-month futures contracts on the Reference Commodity (for each Fund, a “Benchmark”).⁷ Each Fund will pursue its investment objectives by investing in futures contracts that comprise its Benchmark (“Benchmark Futures Contracts”),⁸ together with cash and cash equivalents that will serve as collateral or margin for a Fund’s investments.⁹ To the extent that Benchmark Futures Contracts become unavailable for investment (for example, due to price limits, accountability levels, increased margin levels, exchange position limits, margin requirements, futures commission merchant (“FCM”)-imposed position limits, or FCM risk mitigation requirements), each Fund may invest in: (i) futures contracts on its Reference Commodity that settle beyond the second month; (ii) ETFs (“Benchmark-Linked ETFs”) that provide exposure to its Reference Commodity; (iii) ETPs (“Benchmark-Linked ETPs”) that provide exposure to its Reference Commodity; and (iv)

⁶ See Notice, supra note 4.

⁷ See id. at 53686-8. Each Fund will operate as a series of the Trust. The sponsor of the Trust is Volatility Shares LLC (“Sponsor”). The Sponsor manages the Trust and will manage the Funds. Wilmington Trust, National Association, is the sole trustee of the Trust. U.S. Bank National Association serves as custodian for the Trust. See id. at 53687; 53687 n.7, 9.

⁸ The futures contracts in which each Fund will invest trade on an exchange that is a Designated Contract Market (“DCM”) registered with the Commodity Futures Trading Commission and is an Intermarket Surveillance Group (“ISG”) member. See id. at 53691.

⁹ See id. at 53686. For a further description of the Benchmark and Benchmark Futures Contracts for each Fund, see id. at 53687-89.

exchange-listed options on its Benchmark-Linked ETFs, Benchmark-Linked ETPs, or Benchmark Futures Contracts.¹⁰

The Exchange states that it is submitting the Proposal because each Fund will seek daily results, before fees and expenses, equal to three times (3x) the daily performance of its Benchmark; however, the Funds and the Shares will meet all of the other requirements under the generic listing standards for Commodity-Based Trust Shares set forth in BZX Rule 14.11(e)(4).¹¹

III. DISCUSSION AND COMMISSION FINDINGS

After careful review, the Commission finds that the Proposal is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.¹² In particular, the Commission finds that the Proposal is consistent with Section 6(b)(5) of the Act,¹³ which requires, among other things, that the Exchange’s rules be designed to “prevent fraudulent and manipulative acts and practices” and, “in general, to protect investors and the public interest;” and with Section 11A(a)(1)(C)(iii) of the Act,¹⁴ which sets forth Congress’ finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

A. Exchange Act Section 6(b)(5)

¹⁰ See id. at 53686.

¹¹ See id. at 53687. See also Securities Exchange Act Release Nos. 103995 (Sept. 17, 2025), 90 FR 45414 (Sept. 22, 2025) (SR-NASDAQ-2025-056; SR-CboeBZX-2025-104; SR-NYSEARCA-2025-54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) (“Generics Approval Order”); 106011 (July 29, 2026), 91 FR 48957 (Aug. 3, 2026) (SR-CboeBZX-2026-061) (Notice of Filing, and Order Granting Accelerated Approval of, a Proposed Rule Change to Amend Rule 14.11(e)(4) (Commodity-Based Trust Shares)) (“Generics Amendment Approval Order”).

¹² In approving the Proposal, the Commission has considered the Proposal’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78k-1(a)(1)(C)(iii).

The Commission finds that the Proposal is consistent with the Section 6(b)(5) requirement that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices. The Exchange represents that the Funds will meet all the requirements set forth in BZX Rule 14.11(e)(4) except that each Fund will seek to provide daily investment returns that correspond to three times (3x) the daily performance of its Benchmark.¹⁵ The Commission has previously found that the requirements set forth in BZX Rule 14.11(e)(4) for the generic listing of Commodity-Based Trust Shares are consistent with the Act.¹⁶ Here, the Reference Commodities that underlie the Funds' holdings meet the eligibility criteria set forth in BZX Rule 14.11(e)(4)(D).¹⁷ Furthermore, ETPs that are not Commodity-Based Trust Shares that provide leveraged exposure to each of the Reference Commodities currently list and trade on national securities exchanges.¹⁸ As the Commission stated in the Generics Approval Order, consistently

¹⁵ See supra note 13 and accompanying text. BZX Rule 14.11(e)(4)(F) provides that Commodity-Based Trust Shares eligible to list and trade pursuant to Rule 19b-4(e) (i.e., without a rule filing pursuant to Section 19(b) of the Act) "may not seek, directly or indirectly, to provide investment returns that correspond to the performance of an index, benchmark, or reference value by a specified multiple, or to provide investment returns that have an inverse or multiple inverse relationship to the performance of an index, benchmark, or reference value, over a predetermined period of time." Thus, BZX Rule 14.11(e)(4) precludes Commodity-Based Trust Shares that seek leveraged or inverse exposure from being eligible for generic listing under the rule.

¹⁶ See Generics Approval Order; Generics Amendment Approval Order. Among other things, the Commission found that the portfolio holding eligibility requirements help to ensure the availability of information necessary to aid in the detection and deterrence of potential manipulations and other trading abuses, thereby making the Commodity-Based Trust Shares less readily susceptible to fraud and manipulation. See Generics Approval Order at 45418 and 45418 n.72 and Generics Amendment Approval Order at 48958. In addition, the Commission found that the website disclosure requirements will facilitate transparency with respect to the Commodity-Based Trust Shares and diminish the risk of manipulation or unfair informational advantage, consistent with the maintenance of fair and orderly markets and investor protection. See Generics Approval Order at 45420.

¹⁷ Each of gold, silver, bitcoin, ether, crude oil, and natural gas underlies a futures contract that has been made available to trade on a DCM for at least six months, and the Exchange has a comprehensive surveillance-sharing agreement, directly or through common ISG membership, with such DCM. See Notice at 53690-91. See also BZX Rule 14.11(e)(4)(D)(i)(b).

¹⁸ See, e.g., ProShares Ultra Gold (UGL), seeks daily investment results that corresponds to two times (2x) the daily performance of gold (<https://www.sec.gov/Archives/edgar/data/1415311/000119312526126553/d86378d424b3.htm>); MicroSectors Gold 3x Leveraged ETN (SHNY), seeks daily investment results that correspond to three times (3x) the daily performance of gold (<https://www.sec.gov/Archives/edgar/data/927971/000121465923002804/r215231424b2.htm>); ProShares Ultra Silver (AGQ), seeks daily investment results that correspond to two times (2x) the daily performance of the silver (<https://www.sec.gov/Archives/edgar/data/1415311/000119312526126553/d86378d424b3.htm>); Volatility Shares 2x Bitcoin ETF (BITX), seeks daily investment results that correspond to two times (2x) the daily

applying listing standards across products with economic exposures to the same underlying commodities levels the playing field between issuers, which should promote competition and would more readily afford investors greater investment options.¹⁹

The Commission also finds that the Proposal is consistent with the Section 6(b)(5) requirement that the Exchange's rules be designed to protect investors and the public interest because existing rules and standards of conduct would apply to recommending and advising investments in the Shares. When broker-dealers recommend ETPs to retail customers, Regulation Best Interest ("Reg BI") would apply.²⁰ Reg BI requires broker-dealers to, among other things, exercise reasonable diligence, care, and skill when making a recommendation to a retail customer to: (1) understand potential risks, rewards, and costs associated with the recommendation and have a reasonable basis to believe that the recommendation could be in the best interest of at least some retail customers; and (2) have a reasonable basis to believe the recommendation is in the best interest of a particular retail customer based on that retail customer's investment profile.²¹ In addition, investment advisers have a fiduciary duty under the

performance of bitcoin
https://www.sec.gov/ix?doc=/Archives/edgar/data/0001884021/000121390026072183/ea0295205-01_485bpos.htm); Volatility Shares 2x Ether ETF (ETHU), seeks daily investment results that correspond to two times (2x) the daily performance of ether
https://www.sec.gov/ix?doc=/Archives/edgar/data/0001884021/000121390026072183/ea0295205-01_485bpos.htm); ProShares Ultra Bloomberg Crude Oil (UCO), seeks daily investment results that correspond to two times (2x) the daily performance of crude oil
<https://www.sec.gov/Archives/edgar/data/1415311/000119312526126553/d86378d424b3.htm>); and ProShares Ultra Bloomberg Natural Gas (BOIL), which seeks daily investment results that correspond to two times (2x) the daily performance of natural gas
<https://www.sec.gov/Archives/edgar/data/1415311/000119312525065644/d841231d424b3.htm>). See also the following that were previously, but are no longer, listed and traded: VelocityShares 3x Long Silver ETN (USLV), designed to correspond to three times (3x) the daily performance of silver
https://www.sec.gov/Archives/edgar/data/1053092/000095010320012009/dp130575_424b2-vlsetn2a28.htm), ProShares UltraPro 3x Crude Oil ETF (OILU), designed to correspond to three times (3x) the daily performance of the crude oil
<https://www.sec.gov/Archives/edgar/data/1415311/000119312517093506/d309732d424b3.htm>); VelocityShares 3x Long Natural Gas ETN (UGAZ), designed to correspond to three times (3x) the daily performance of natural gas
https://www.sec.gov/Archives/edgar/data/1053092/000095010320012010/dp130569_424b2-vlsetn3a54.htm).

¹⁹ See Generics Approval Order at 45419.

²⁰ 17 CFR 240.15l-1(a).

²¹ 17 CFR 240.15l-1(a)(2)(ii)(A) and (B). Separately, under Reg BI's Conflict of Interest Obligation, broker-dealers must establish, maintain, and enforce written policies and procedures reasonably designed to,

Investment Advisers Act of 1940 comprised of a duty of care and a duty of loyalty. These obligations require the adviser to act in the best interest of its client and not subordinate its client's interest to its own.²² Moreover, FINRA requires increased sales practice and customer margin requirements for FINRA members applicable to inverse, leveraged, and inverse leveraged securities.²³ Exchange members that carry customer accounts are required to follow the FINRA guidance set forth in these notices.²⁴

B. Exchange Act Section 11A(a)(1)(C)(iii)

The Proposal sets forth aspects of the Funds, including the availability of pricing information, transparency of portfolio holdings, and types of surveillance procedures, that are consistent with other ETPs that the Commission has approved.²⁵ This includes commitments regarding: for example, the availability on the Trust's website of certain information related to

among other things, identify and disclose or eliminate all conflicts of interest associated with a recommendation and mitigate conflicts of interest at the associated person level. See 17 CFR 240.15c-1(a)(2)(iii)(A) and (B). To the extent that broker-dealers recommend ETPs to customers who are not retail customers covered by Reg BI, Financial Industry Regulatory Authority ("FINRA") Rule 2111 requires, in part, that a member broker-dealer or associated person "have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the [broker-dealer] or associated person to ascertain the customer's investment profile."

²² See Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Investment Advisers Act Release No. IA-5248 (June 5, 2019), 84 FR 33669 (July 12, 2019), at 33671; Investment Company Act Release No. IC-34084 (Nov. 2, 2020), 85 FR 83162 (Dec. 21, 2020), at 83217 (discussing the best interest standard of conduct for broker-dealers and the fiduciary obligations of investment advisers in the context of all ETPs).

²³ See e.g., FINRA Regulatory Notices 09-31 (June 2009), 09-53 (Aug. 2009), 12-03 (Jan. 2012), 17-32 (Oct. 2017), 22-08 (Mar. 2022).

²⁴ See *id.* The Exchange also has rules relating to suitability. In particular, BZX Rule 3.7 imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers and Interpretation and Policy .01 of BZX Rule 3.7 imposes a duty of due diligence on Exchange members to learn the essential facts relating to every customer prior to trading the Shares, and specifically provides that "[n]o Member shall recommend to a customer a transaction in any such product unless the Member has a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction and is financially able to bear the risks of the recommended position."

²⁵ See, e.g., Securities Exchange Act Release No. 105582 (May 29, 2026), 91 FR 33252 (June 3, 2026) (SR-NASDAQ-2025-085) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to List and Trade Shares of the iShares Bitcoin Premium Income ETF under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)).

the Funds, including each Fund's net asset value per Share; the dissemination of information relating to the underlying Reference Commodities, indices, or the intraday indicative value, made widely available on at least a 15-second delayed basis; the Exchange's surveillance procedures and ability to obtain information regarding trading in the Shares; the conditions under which the Exchange would implement trading halts and suspensions; and the requirements of registered market makers in the Shares.²⁶

Apart from each Fund seeking daily results, before fees and expenses, equal to three times (3x) the daily performance of its Benchmark, the Shares must meet all the requirements for initial and continued listing under BZX Rule 14.11(e)(4). The Shares will be subject to the rules and procedures of the Exchange that currently govern the trading of equity securities on the Exchange.²⁷ All statements and representations contained in the Proposal regarding, among others things, the description of the Benchmarks and the Funds' holdings, limitations on the Benchmarks and the Funds' holdings, and the applicability of the Exchange's listing rules specified in the Proposal, will constitute continued listing requirements.²⁸ Moreover, the Trust must notify the Exchange of any failure by a Fund to comply with the continued listing requirements.²⁹ Pursuant to obligations under Section 19(g)(1) of the Act,³⁰ the Exchange will surveil for compliance with the continued listing requirements; and if a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures.³¹

²⁶ See BZX Rule 14.11(e)(4)(E), (I), (J), (L).

²⁷ See BZX Rule 14.11(e)(4)(B).

²⁸ See BZX Rule 14.11(e)(4)(A).

²⁹ Id.

³⁰ 15 U.S.C. 78s(g)(1).

³¹ See BZX Rule 14.11(e)(4)(I).

The Commission therefore finds that the Proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately, to prevent trading when a reasonable degree of transparency cannot be assured, to safeguard material non-public information relating to each Fund's portfolio, and to ensure fair and orderly markets for the Shares.

IV. CONCLUSION

This approval order is based on all of the Exchange's representations and descriptions in the Proposal, which the Commission has evaluated as discussed above.³² For the reasons set forth above, the Commission finds, pursuant to Section 19(b)(2) of the Act,³³ that the Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Act.³⁴

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,³⁵ that the proposed rule change (SR-CboeBZX-2026-065) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

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³² In addition, the Shares must comply with the requirements of BZX Rule 14.11(e)(4) to be listed and traded on the Exchange on an initial and a continuing basis, except that each Fund will seek daily results, before fees and expenses, equal to three times (3x) the daily performance of its Benchmark.

³³ 15 U.S.C. 78s(b)(2).

³⁴ 15 U.S.C. 78f(b)(5); 15 U.S.C. 78k-1(a)(1)(C)(iii).

³⁵ 15 U.S.C. 78s(b)(2).

³⁶ 17 CFR 200.30-3(a)(12).