

allows the Exchange the flexibility to administer the badges within its System.

#### *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 not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not impose an intra-market burden on competition with respect to the reorganization and relocation of the various rules into Rule 714 because the various risk protections are mandatory and will continue to apply uniformly to all market participants. The Exchange also believes that the addition of specific limitations to both the Limit Order Price Protection and Market Order Spread Protection rules will provide market participants with greater information as to when these protections will apply. These limitations apply uniformly to all market participants. The remainder of the rule changes are intended to bring greater transparency to the current operation of the Exchange's rules.

#### *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**

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>21</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>22</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the

public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange argues that waiver of the operative delay would allow the Exchange to immediately incorporate all risk protections into Rule 714 and bring greater transparency to the risk protections offered on the Exchange. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>23</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or 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 (<http://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-ISE-2018-80 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-2018-80. 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

<sup>23</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

internet website (<http://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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2018-80, and should be submitted on or before October 17, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2018-20881 Filed 9-25-18; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Investment Company Act Release No. 33243; File No. 812-14892]**

### **Ares Credit and Income Trust and Ares Capital Management III LLC; Notice of Application**

September 21, 2018.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application for an order under section 12(d)(1)(j) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end

<sup>24</sup> 17 CFR 200.30-3(a)(12).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

<sup>22</sup> 17 CFR 240.19b-4(f)(6)(iii).

investment companies, registered closed-end investment companies, business development companies, as defined in section 2(a)(48) of the Act, and registered unit investment trusts (collectively, "Underlying Funds") that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

**APPLICANTS:** Ares Credit and Income Trust (the "Trust"), a Delaware statutory trust that will be registered under the Act as an open-end management investment company with multiple series, and Ares Capital Management III LLC (the "Initial Adviser"), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

**FILING DATES:** The application was filed on April 3, 2018 and amended on August 3, 2018.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 16, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. Applicants: Daniel J. Hall, Ares Capital Management III, LLC, 2000 Avenue of the Stars, 12th Floor, Los Angeles, CA 90067; Steven B. Boehm, Esq., Cynthia M. Krus, Esq., and Cynthia R. Beyea, Esq., Eversheds Sutherland (US) LLP, 700 Sixth Street, NW, Suite 700, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Archer-Beck, Senior Counsel, at (202) 551-5044, or Kaitlin C. Bottock, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's

website by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

### Summary of the Application

1. Applicants request an order to permit (a) a Fund<sup>1</sup> (each a "Fund of Funds") to acquire shares of Underlying Funds<sup>2</sup> in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.<sup>3</sup> Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.<sup>4</sup> Applicants state that such

<sup>1</sup> Applicants request that the order apply to each existing and future series of the Trust and to each existing and future registered open-end management investment company or series thereof that is advised by Initial Adviser or its successor-in-interest or by any other investment adviser controlling, controlled by or under common control with the Initial Adviser or its successor-in-interest and is part of the same "group of investment companies" as the Trust (each, a "Fund"). For purposes of the requested order, "successor-in-interest" is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term "group of investment companies," as defined in Section 12(d)(1)(G)(ii) of the Act, means any two or more registered investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

<sup>2</sup> Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund ("ETF").

<sup>3</sup> Applicants do not request relief for Funds of Funds to invest in reliance on the order in business development companies and registered closed-end investment companies that are not listed and traded on a national securities exchange.

<sup>4</sup> A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each ETF that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund of Funds, to sell shares to or redeem shares from the Fund of Funds. This includes, in the case of sales and redemptions of shares of ETFs, the in-kind transactions that accompany such sales and redemptions. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions

transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (a) undue influence over an Underlying Fund that is not in the same "group of investment companies" as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (b) excessive layering of fees, and (c) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. A Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund (including a business development company) through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84231; File No. SR–CboeBZX–2018–040]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of SolidX Bitcoin Shares Issued by the VanEck SolidX Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

September 20, 2018.

On June 20, 2018, Cboe BZX Exchange, Inc. (“BZX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to list and trade shares of SolidX Bitcoin Shares (“Shares”) issued by the VanEck SolidX Bitcoin Trust (“Trust”) under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on July 2, 2018.<sup>3</sup>

On August 7, 2018, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> 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.<sup>5</sup> As of September 19, 2018, the Commission has received more than 1,400 comment letters on the proposed rule change.<sup>6</sup> This order institutes proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine

whether to approve or disapprove the proposed rule change.

#### I. Summary of the Proposal<sup>8</sup>

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.<sup>9</sup> Each Share will represent a fractional undivided beneficial interest in the Trust’s net assets. SolidX Management LLC will be the sponsor of the Trust (“Sponsor”). The Trust will be responsible for custody of the Trust’s bitcoin. The Bank of New York Mellon will be the Administrator, transfer agent, and the custodian, with respect to cash, of the Trust. Foreside Fund Services, LLC will be the marketing agent in connection with the creation and redemption of baskets of Shares. Van Eck Securities Corporation will provide assistance in the marketing of the Shares.<sup>10</sup>

According to the Exchange, the investment objective of the Trust is for the Shares to reflect the performance of the price of bitcoin, less the expenses of the Trust’s operations. The Trust is not actively managed and will not engage in activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the price of bitcoin.<sup>11</sup> The Administrator will generally use the closing price set for bitcoin by the MVIS Bitcoin OTC Index (“MVBTCO”) to calculate the Fund’s NAV on each business day that the Exchange is open for regular trading, as promptly as practicable after 4:00 p.m. E.T.<sup>12</sup>

<sup>8</sup> The Commission notes that additional information regarding the Trust and the Shares, including investment strategies, calculation of net asset value (“NAV”) and intra-day indicative value (“IIV”), creation and redemption procedures, and additional background information about bitcoins and the Bitcoin network, among other things, can be found in the Notice (*see supra* note 3) and the registration statement filed with the Commission on Form S–1 (File No. 333–212479) under the Securities Act of 1933 (“Registration Statement”), as applicable.

<sup>9</sup> *See* BZX Rule 14.11(e)(4) (permitting the listing and trading of “Commodity-Based Trust Shares,” defined as a security (a) that is used by a trust which holds a specified commodity deposited with the trust; (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 (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).

<sup>10</sup> *See* Notice, *supra* note 3, at 31015.

<sup>11</sup> *See id.* at 31015.

<sup>12</sup> *See id.* at 31020. In the event that the Sponsor determines that this valuation method has failed, the Sponsor will determine the bitcoin market price on the valuation date according to a set of alternative methods to be used in the following order: (a) The mid-point price of the bid/ask spread as of 4:00 p.m. E.T. obtained by the Sponsor from any bitcoin OTC platform that is part of the

According to the Exchange, the MVBTCO represents the value of one bitcoin in U.S. dollars at any point in time. The Exchange represents that the MVBTCO calculates the intra-day price of bitcoin every 15 seconds and a closing price as of 4:00 p.m. E.T., each weekday and that the intra-day levels of the MVBTCO incorporate the real-time price of bitcoin based on executable bids and asks derived from constituent bitcoin over-the-counter (“OTC”) platforms that have entered into an agreement with MV Index Solutions GmbH (“MVIS”) to provide such information. According to the Exchange, the intra-day price and closing level of the MVBTCO is calculated using a proprietary methodology collecting executable bid/ask spreads and calculating a mid-point price from several U.S.-based bitcoin OTC platforms. The Exchange represents that bitcoin OTC platforms included in the MVBTCO are U.S.-based entities that are well established institutions and include entities that are regulated by the Commission and the Financial Industry Regulatory Authority (“FINRA”) as registered broker-dealers and affiliates of broker-dealers. According to the Exchange, the logic utilized for the derivation of the intra-day and daily closing index level for the MVBTCO is intended to analyze actual executable bid/ask spread data, verify and refine the data set, and yield an objective, fair-market value of one bitcoin priced in U.S. dollars.<sup>13</sup> The Trust’s website will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third party financial data provider during the Exchange’s Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.).<sup>14</sup>

The Exchange states that the Trust intends to achieve its investment objective by investing substantially all of its assets in bitcoin traded primarily in the OTC markets, but that the Trust may also invest in bitcoin traded on domestic and international bitcoin exchanges, depending on liquidity and other factors at the Trust’s discretion.<sup>15</sup>

MVBTCO index; (b) the volume-weighted average price over the 24-hour period ending at 4:00 p.m. E.T. as published by a public data feed that is calculated based upon a volume-weighted average bitcoin price obtained from the major U.S. dollar-denominated bitcoin exchanges and that the Sponsor determines is reasonably reliable; and (c) the Sponsor’s best judgment of a good faith estimate of the bitcoin market price. Greater detail concerning the alternative pricing procedures if the MVBTCO cannot be utilized as the basis for NAV calculations can be found in the Notice. *See id.* at 31019–20.

<sup>13</sup> *See id.* at 31017–18.

<sup>14</sup> *See id.* at 31023.

<sup>15</sup> *See id.* at 31015.

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> *See* Securities Exchange Act Release No. 83520 (June 26, 2018), 83 FR 31014 (July 2, 2018) (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *See* Securities Exchange Act Release No. 83792 (Aug. 7, 2018), 83 FR 40112 (Aug. 13, 2018). The Commission designated September 30, 2018, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>6</sup> All comments on the proposed rule change are available on the Commission’s website at <https://www.sec.gov/comments/sr-cboebzx-2018-040/cboebzx2018040.htm>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).