

operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>86</sup> and Rule 19b-4(f)(6) thereunder.<sup>87</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>88</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>89</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that the waiver of the 30-day operative delay would ensure fair competition among the exchanges by allowing the Exchange to permit the listing of two Wednesday expirations for options on ETPs. The Exchange also states that waiver of the operative delay would allow the Exchange to immediately offer an additional market to investors to trade Monthly Options Series and to compete effectively with at least one other exchange that currently lists and trades the same series. The Exchange further states that waiver of the operative delay would allow the Exchange to immediately adopt the strike interval program and list strikes on the Exchange in accordance with this proposal, and thereby provide opportunities for investors to select the venue on which to trade these strikes. In addition, the Exchange states that the changes contained in the proposal are substantively identical to changes that have been adopted by the Exchange's affiliate, MIAX Pearl Options.<sup>90</sup>

For these reasons, and because the proposal does not raise any new or novel legal or regulatory issues, the Commission finds 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 30-day operative delay and designates the

proposed rule change operative upon filing.<sup>91</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 will institute proceedings under Section 19(b)(2)(B)<sup>92</sup> 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 (<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-SAPPHIRE-2024-02 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-SAPPHIRE-2024-02. 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

<sup>91</sup> For purposes only of waiver the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>92</sup> 15 U.S.C. 78s(b)(2)(B).

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-SAPPHIRE-2024-02 and should be submitted on or before September 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>93</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

[FR Doc. 2024-17953 Filed 8-12-24; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100666; File No. SR-NYSEAMER-2024-45]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed Rule Change To Amend Rule 915 To Permit the Listing and Trading of Options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, the Grayscale Ethereum Mini Trust, and Any Trust That Holds Ether

August 7, 2024.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on July 23, 2024, NYSE American LLC ("NYSE American" 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 self-regulatory organization. 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 Rule 915 to permit the listing and trading of options on the Bitwise

<sup>93</sup> 17 CFR 200.30-3(a)(12), (59).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>86</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>87</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

<sup>88</sup> 17 CFR 240.19b-4(f)(6).

<sup>89</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>90</sup> See *supra* note 11 and accompanying text.

Ethereum ETF, the Grayscale Ethereum Trust (ETH), the Grayscale Ethereum Mini Trust, and any trust that holds ether. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), 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 self-regulatory organization 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 those 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 parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend Rule 915 (Criteria for Underlying Securities), Commentary .10, to allow the Exchange to list and trade options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), the Grayscale Ethereum Trust Mini, and any trust that holds [sic] (collectively, "Ether ETPs").<sup>4</sup>

Commentary .06 to Rule 915 (hereinafter "Commentary .06") provides that, subject to certain other criteria set forth in Rule 915, securities deemed appropriate for options trading include ETFs that represent certain types of interests,<sup>5</sup> including interests in

<sup>4</sup> See proposed Commentary .10 to Rule 915. The Commission recently approved rule changes to list and trade shares of Ether-Based Trust Shares pursuant to Rule 8.201-E(c)(1) (Commodity-Based Trust Shares), including the Bitwise Ethereum ETF and the Grayscale Ethereum Trust (ETH) and the Grayscale Ethereum Trust Mini. See Securities Exchange Act Release Nos. 100224 (May 23, 2024), 89 FR 3008 (May 30, 2024) (SR-NYSEARCA-2023-70; SR-NYSEARCA-2024-31) (order approving the listing and trading of, among other Ether-Based Exchange-Traded Products, the Bitwise Ethereum ETF and the Grayscale Ethereum Trust (ETH)); and 100541 (July 17, 2024) [FR] [sic] (SR-NYSEARCA-2024-44) (order approving the listing and trading of, among others, the Grayscale Ethereum Trust Mini).

<sup>5</sup> See Commentary .06, which permits options trading on ETFs that are traded on a national securities exchange and are defined as an "NMS stock" in Rule 600(b)(55) of Regulation NMS, that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold

certain specific trusts that hold financial instruments, money market instruments, or precious metals (which are deemed commodities).

Ether ETPs, including the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Mini Trust are ether-backed commodity ETPs structured as trusts.<sup>6</sup>

Similar to any ETFs currently deemed appropriate for options trading under Rule 915, the investment objective of an Ether ETP trust is for its shares to reflect the performance of ether (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to ether without the complexities of ether delivery. As is the case for ETFs currently deemed

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 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); 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"); 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"); or represents 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"); provided that all of the conditions listed in Rules 915 and 916 are met.

<sup>6</sup> See *supra* note 4 (regarding order approving rule changes to list and trade shares of "Ether-Based Exchange-Traded Products" pursuant to Rule 8.201-E(c)(1) (Commodity-Based Trust Shares), including Bitwise Ethereum ETF, Grayscale Ethereum, and the Grayscale Ethereum Trust Mini. For a complete description of the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Mini Trust see SR-NYSEARCA-2024-31, SR-NYSEARCA-2023-70, and SR-NYSEARCA-2024-44, respectively.

appropriate for options trading, a [sic] Ether ETP's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of ether and are designed to track ether or the performance of the price of ether and offer access to the ether market.<sup>7</sup>

Ether ETPs provide investors with cost efficient alternatives that allow a level of participation in the ether market through the securities market. The primary substantive difference between Ether ETPs and ETFs currently deemed appropriate for options trading are that ETFs may hold securities, certain financial instruments, and specified precious metals (which are commodities), while Ether ETPs hold ether (which is also deemed a commodity).<sup>8</sup> The Exchange believes that offering options on Ether ETPs, including the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Trust Mini, will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to spot ether as well as a hedging vehicle to meet their investment needs in connection with ether products and positions.

Ether ETPs will trade in the same manner as options on other ETFs (including commodities ETFs) on the Exchange.<sup>9</sup> In particular, and as detailed below, Exchange rules that 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, will likewise apply to the listing and trading of options on Ether ETPs on the Exchange.

The Exchange's initial listing standards for ETFs on which options

<sup>7</sup> The trust may include minimal cash. See *e.g.*, Securities Exchange Act Release No. 100213 (May 22, 2024), 89 FR 46533, 46534 (May 29, 2024) (SR-NYSEARCA-2024-31) (providing that, for the Bitwise Ethereum ETF, the "only assets will be ether and cash").

<sup>8</sup> Similar to other commodity ETFs in which options may be listed on the Exchange pursuant to Rule 915, Commentary .10 (*e.g.*, SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the ETFs Gold Trust, the ETFs Silver Trust, the ETFs Palladium Trust, or the ETFs Platinum Trust), each of the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Trust Mini, are trusts that essentially offer analogous objectives and benefits to investors.

<sup>9</sup> As with any ETF that trades on the Exchange, the Exchange would not list and trade options on Ether ETPs, including the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Trust Mini, unless such instruments satisfied all applicable criteria in Rules 915 and 916, as applicable.

may be listed and traded on the Exchange will apply to Ether ETPs. The Exchange expects Ether ETPs to satisfy the initial listing standards as set forth in Rule 915(a) (generally) and Commentary .06 (which applies to ETFs specifically). Pursuant to Rule 915(a), a security (which includes ETFs) 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. In addition, Commentary .06 requires that ETFs must either (1) meet the criteria and standards set forth in Commentary .01 to Rule 915,<sup>10</sup> or (2) the ETFs are available for creation and redemption each business day as set forth in Commentary .06(a)(ii).

Options on Ether ETPs will also be subject to the Exchange's continued listing standards set forth in Commentary .07 to Rule 916 which provides that options on ETFs may be subject to the suspension of opening transactions as follows: (1) the ETFs no longer meets the terms of Commentary .01 to Rule 916; (2) following the initial twelve-month period beginning upon the commencement of trading of the ETFs, there are fewer than 50 record and/or beneficial holders of the ETFs for 30 or more consecutive trading days; (3) the value of the underlying commodity is no longer calculated or available; or (4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, ETFs will be deemed to not meet the requirements for continued approval, and the Exchange will not open for trading any additional series of option contracts covering the ETF if such security ceases to be an "NMS stock" as provided for Commentary .01(5) to Rule 915 or the ETF is halted from trading on its primary market.<sup>11</sup>

<sup>10</sup> See Commentary .01 to Rule 915, which sets forth minimum requirements for the underlying security which include, but are not limited to, 7,000,000 underlying shares, 2,000 shareholders, and trading volume of 2,400,000 shares over the preceding twelve months. Additionally, the rule requires that the market price per share of the underlying security must be at least \$7.50 for the majority of business days during the three calendar months preceding the date of selection of an option class. For underlying securities that are deemed Covered Securities, as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the closing market price of the underlying security must be at least \$3.00 per share for the previous three consecutive business days prior to the date of selection of an option class.

<sup>11</sup> See Commentary .07 to Rule 916. For avoidance of doubt and consistent with this

Options on Ether ETPs listed pursuant to proposed Commentary .10 to Rule 915 would be physically settled contracts with American-style exercise<sup>12</sup> and would be included within the definition of securities as such terms are used in the Exchange's rules and, as such, would be subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange, including Exchange rules governing the trading of equity options. Furthermore, the Exchange's rules pertaining to position and exercise limits or margin shall apply to options on Ether ETPs.

Specifically, consistent with Rule 903, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on Ether ETPs and may also list series of options on Ether ETPs for trading on a weekly<sup>13</sup> or quarterly<sup>14</sup> basis. The Exchange may also list long-term equity option series ("LEAPS")<sup>15</sup> that expire from twelve to thirty-nine months from the time they are listed.

Pursuant to Rule 903, Commentary .05(a), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on ETFs approved for options trading (per Commentary .06) will be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established

proposal, the Exchange proposes to amend Rule 916 to include the Ether ETPs in the list of ETFs subject to the continued listing standards. See proposed Commentary .11 to Rule 916 (proving that "[f]or purposes of Commentary .07 of this Rule 916, shares of the SPDR® Gold Trust (symbol: GLD), iShares COMEX Gold Trust (symbol: IAU), the iShares Silver Trust (symbol: SLV), and the ETFs Silver Trust (symbol: SIVR), the ETFs Gold Trust (symbol: SGOL), the ETFs Palladium Trust (symbol: PALL), the ETFs Platinum Trust (symbol: PPLT), the Bitwise Ethereum ETF (symbol: ETHW), the Grayscale Ethereum Trust (ETH) (symbol: ETHE), the Grayscale Ethereum Mini Trust (symbol: ETH), and any trust that holds ether, are deemed to be 'Exchange-Traded Fund Shares'") (emphasis added).

<sup>12</sup> See Rule 902 (Rights and Obligations of Holders and Writers), which provides that the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation. See also OCC Rules, Chapter 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. OCC Rules can be located at: <https://www.theocc.com/getmedia/9d3854cd-b782-450f-bcf7-33169b0576ce/occrules.pdf>.

<sup>13</sup> See Rule 903(h).

<sup>14</sup> See Rule 903, Commentary .09.

<sup>15</sup> See Rule 903, Commentary .03.

on another options exchange prior to the initiation of trading on the Exchange. With respect to the Short Term Options Series or Weekly Program, during the month prior to expiration of an option class that is selected for the Short Term Option Series Program, the strike price intervals for the related non-Short Term Option ("Related non-Short Term Option") shall be the same as the strike price intervals for the Short Term Option.<sup>16</sup> Specifically, the Exchange may open for trading Short Term Option Series at strike price intervals of (i) \$0.50 or greater where the strike price is less than \$100, and \$1 or greater where the strike price is between \$100 and \$150 for all option classes that participate in the Short Term Options Series Program; (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program; or (iii) \$2.50 or greater where the strike price is above \$150.<sup>17</sup> Additionally, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>18</sup> the \$0.50 Strike Program,<sup>19</sup> the \$2.50 Strike Price Program,<sup>20</sup> and the \$5 Strike Program.<sup>21</sup> Rule 960NY governs the minimum increment for bids and offers for both equity and index options. Pursuant to Rule 960NY, where the price of a series of options in Ether ETPs 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>22</sup> consistent with the minimum increments for options on other ETFs listed on the Exchange. Any and all new series of options on Ether ETPs that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 915, 903, and 970NY, as applicable.

Position and exercise limits for options on ETFs, including options on Ether ETPs, are determined pursuant to Rules 904 and 905, 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, recapitalizations, 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. Further, Rule 462, 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 Ether ETP options.

\* \* \* \* \*

The Exchange notes that options on Ether ETPs would not be available for trading until The Options Clearing Corporation (“OCC”) represents to the Exchange that it is fully able to clear and settle such options. The Exchange has also analyzed its capacity and represents that it and The Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing of options on Ether ETPs. The Exchange believes any additional traffic that would be generated from the trading of options on Ether ETPs would be manageable. The Exchange represents that Exchange members will not have a capacity issue as a result of this proposed rule change.

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 Ether ETPs. The 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, including the options on Ether ETPs. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of options on Ether ETPs in all trading sessions and to deter and detect violations of Exchange rules. In addition, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Ether ETPs. Also, the Exchange may obtain trading information via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members of the ISG, or from other exchanges with which the Exchange has entered into a comprehensive surveillance sharing agreement (“CSSA”). The Exchange will enter into new CSSAs with other exchanges as necessary to effectively monitor the trading of options on Ether ETPs. The Exchange represents that these procedures will be adequate to properly monitor Exchange trading of options on Ether ETPs and to deter and detect violations of Exchange rules.

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

Ether ETPs will be available via OPRA and major market data vendors.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>23</sup> in general and furthers the objectives of Section 6(b)(5) of the Act<sup>24</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the Exchange believes that the proposal to list and trade options on Ether ETPs 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 Ether ETPs will provide investors with a greater opportunity to realize the benefits of utilizing options on an ETF based on spot ether, including cost efficiencies and increased hedging strategies. The Exchange believes that offering options on a competitively priced ETF based on spot ether will benefit investors by providing them with an additional, relatively lower cost risk management tool allowing them to manage, more easily, their positions, and associated risks, in their portfolios in connection with exposure to spot ether. Today, the Exchange lists options on other commodity ETFs structured as a trust, which essentially offer analogous 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 Ether ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system, because options on Ether ETPs will comply with current Exchange rules as discussed herein. Specifically, options on Ether ETPs must satisfy the initial listing standards and continued listing standards currently in the Exchange 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 915, Commentary .10. Further, Exchange rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin

<sup>23</sup> 15 U.S.C. 78f(b).

<sup>24</sup> 15 U.S.C. 78f(b)(5).

requirements, will govern the listing and trading of options on Ether ETPs.

The Exchange represents that it has the necessary systems capacity to support any additional traffic that may be generated by the trading of options on Ether ETPs. In addition, the Exchange represents that its existing surveillance procedures are adequate to properly monitor the trading of options on Ether ETPs in all trading sessions and to deter and detect violations of Exchange rules. The Exchange further represents that it will implement new surveillance procedures, as necessary, to effectively monitor the trading of options on Ether ETPs.

Finally, the Commission has previously approved the listing and trading of options on other commodity ETFs structured as a trust, such as SPDR Gold Trust,<sup>25</sup> the iShares COMEX Gold Trust,<sup>26</sup> the iShares Silver Trust,<sup>27</sup> the ETFS Gold Trust,<sup>28</sup> and the ETFS Silver Trust.<sup>29</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.

*Intramarket Competition:* The 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 options on Ether ETPs will be subject to initial listing standards and continued listing standards the same as other options on ETFs listed on the Exchange. Further, options on Ether

<sup>25</sup> See Securities Exchange Act Release No. 57897 (May 30, 2008), 73 FR 32061 (June 5, 2008) (SR-Amex-2008-15; SR-CBOE-2005-11; SR-ISE-2008-12; SR-NYSEArca-2008-52; and SR-Phlx-2008-17) (Order Granting Approval of a Proposed Rule Change, as Modified, and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified, Relating to Listing and Trading Options on the SPDR Gold Trust).

<sup>26</sup> See Securities Exchange Act Release No. 59055 (December 4, 2008), 73 FR 75148 (December 10, 2008) (SR-Amex-2008-68; SR-BSE-2008-51; SR-CBOE-2008-72; SR-ISE-2008-58; SR-NYSEArca-2008-66; and SR-Phlx-2008-58) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to the Listing and Trading Options on the iShares COMEX Gold Trust and the iShares Silver Trust).

<sup>27</sup> *Id.*

<sup>28</sup> See Securities Exchange Act Release No. 61483 (February 3, 2010), 75 FR 6753 (February 10, 2010) (SR-CBOE-2010-007; SR-ISE-2009-106; SR-NYSEAmex-2009-86; and SR-NYSEArca-2009-110) (Order Granting Approval of Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Listing and Trading Options on the ETFS Gold Trust and the ETFS Silver Trust).

<sup>29</sup> *Id.*

ETPs will be subject to Exchange rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Moreover, options on Ether ETPs will be equally available to all market participants who wish to trade such options. Finally, and as stated above, the Exchange already lists options on other commodity ETFs structured as a trust.

*Intermarket Competition:* The Exchange does not believe the proposal 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 permitting options on Ether ETPs to trade on the Exchange may make the Exchange a more attractive marketplace to market participants, such market participants are free to elect to become market participants on the Exchange.

Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Ether ETPs. 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. 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 options on Ether ETPs 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 spot ether prices and ether-related products and positions.

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

No written comments were solicited or received with respect to 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 self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the 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](mailto:rule-comments@sec.gov). Please include file number SR-NYSEAMER-2024-45 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-NYSEAMER-2024-45. 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-NYSEAMER-2024-45 and should be submitted on or before September 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2024-17949 Filed 8-12-24; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-100667; File No. SR-CBOE-2024-033]**

### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule**

August 7, 2024.

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 August 1, 2024, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("SEC" or "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**

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its Fees Schedule. 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

<sup>30</sup> 17 CFR 200.30-3(a)(12).

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

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