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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 104

Amendment No. (req. for Amendments *)

Filing by   NYSE Arca, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * ✓	Amendment * ☐	Withdrawal ☐

Section 19(b)(2) * ✓	Section 19(b)(3)(A) * ☐	Section 19(b)(3)(B) * ☐

Rule

Pilot ☐	Extension of Time Period for Commission Action * ☐	Date Expires *

19b-4(f)(1) ☐	19b-4(f)(4) ☐
19b-4(f)(2) ☐	19b-4(f)(5) ☐
19b-4(f)(3) ☐	19b-4(f)(6) ☐

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐

Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to list and trade shares of the Bitwise Bitcoin and Ethereum ETF

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Le-Anh   Last Name * Bui

Title *   Senior Counsel, NYSE Group Inc.

E-mail *   Le-Anh.Bui@ice.com

Telephone *   (202) 881-8953   Fax   (212) 656-8101

Signature

Pursuant to the requirements of the Securities Exchange of 1934, NYSE Arca, Inc.
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date   11/26/2024   (Title *)

By   Martha Redding   Corporate Secretary

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Martha Redding

Digitally signed by Martha Redding
Date: 2024.11.26 14:00:41
-05'00'

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Add	Remove	View

19b-4 - NYSE Arca - Bitwise Bitcoin ar

Exhibit 1 - Notice of Proposed Rule Change *	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

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Ex. 1 NYSE Arca Bitwise Bitcoin and I

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

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Exhibit 2- Notices, Written Comments, Transcripts, Other Communications	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

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☐ Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

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☐ Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

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Exhibit 5 - Proposed Rule Text	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Add	Remove	View

Partial Amendment	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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1. Text of the Proposed Rule Change

   (a)   Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (the "Act" or "'34 Act")[1] and Rule 19b-4 thereunder,[2] NYSE Arca, Inc. ("NYSE Arca" or "Exchange"), proposes to list and trade shares of the Bitwise Bitcoin and Ethereum ETF (the "Trust") under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares).

   A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1.

   (b)   The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

   (c)   Not applicable.

2. Procedures of the Self-Regulatory Organization

   The proposed rule change is being submitted to the Securities and Exchange Commission ("Commission") by Exchange staff pursuant to authority delegated to it by the NYSE Arca Board of Directors.

   The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

   Le-Anh Bui
   Senior Counsel
   NYSE Group, Inc.
   (202) 661-8953

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

   (a)   Purpose

   The Exchange proposes to list and trade shares ("Shares") of the Trust[3] pursuant to NYSE Arca Rule 8.201-E, which governs the listing and trading of Commodity Based

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[1]   15 U.S.C. 78s(b)(1).

[2]   17 CFR 240.19b-4.

[3]   The Trust is a Delaware statutory trust. On November 26, 2024, the Trust filed with the Commission an initial registration statement (the "Registration Statement") on Form S-1 under the Securities Act of 1933 (15 U.S.C. 77a). The description of the operation of the Trust herein is based, in part, on the most recent Registration Statement. The Registration Statement is not yet effective, and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

Trust Shares.[4]

According to the Registration Statement, the Trust will not be registered as an investment company under the Investment Company Act of 1940,[5] and is not required to register thereunder. The Trust is not a commodity pool for purposes of the Commodity Exchange Act.[6]

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201-E and thereby qualify for listing on the Exchange.[7]

Operation of the Trust[8]

The Trust will issue the Shares which, according to the Registration Statement, represent units of undivided beneficial ownership of the Trust. The Trust is a Delaware statutory trust and will operate pursuant to a trust agreement (the "Trust Agreement") between Bitwise Investment Advisers, LLC (the "Sponsor" or "Bitwise") and Delaware Trust Company, as the Trust's trustee (the "Trustee"). Coinbase Custody Trust Company, LLC will maintain custody of the Trust's bitcoin and ether (the "Bitcoin and Ether Custodian"). Bank of New York Mellon will be the custodian for the Trust's cash holdings (in such role, the "Cash Custodian"), the administrator of the Trust (in such role, the "Administrator"), and the transfer agent for the Trust (in such role, the "Transfer Agent").

According to the Registration Statement, the investment objective of the Trust is to seek to provide exposure to the value of bitcoin and ether held by the Trust, less the expenses of the Trust's operations and other liabilities. The Trust's allocation of its assets to bitcoin and ether will approximate the relative market capitalization of bitcoin and ether to one another.[9] In seeking to achieve its investment objective, the Trust will hold bitcoin and ether and establish its Net Asset Value ("NAV") at the end of every business day by reference to the CME CF Bitcoin – New York Variant for its bitcoin holdings (the "Bitcoin Pricing Benchmark") and to the CME CF Ether – Dollar Reference Rate – New York Variant for its ether holdings (the "Ether Pricing Benchmark," and, with the Bitcoin

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[4] Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust.

[5] 15 U.S.C. 80a-1.

[6] 17 U.S.C. 1.

[7] With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7).

[8] The description of the operation of the Trust, the Shares, and the ether market contained herein is based, in part, on the Registration Statement. See note 3, supra.

[9] As of the date of this filing, the relative market capitalization of bitcoin and ether is 83% bitcoin and 17% ether. The Trust will calculate the market capitalization of bitcoin and ether by multiplying the Pricing Benchmarks by the current circulating supply of bitcoin and ether respectively, as determined by the Sponsor, and will calculate the relative market capitalization by dividing each of bitcoin and ether's market capitalization by the combined market capitalization of both.

Pricing Benchmark, the "Pricing Benchmarks").[10]

The Trust's only assets will be bitcoin, ether, and cash.[11] The Trust does not seek to hold any non-bitcoin or non-ether crypto assets and has expressly disclaimed ownership of any such assets in the event the Trust ever involuntarily comes into possession of such assets.[12] The Trust will not use derivatives that may subject the Trust to counterparty and credit risks. The Trust will process creations and redemptions in cash. The Trust's only recurring ordinary expense is expected to be the Sponsor's unitary management fee (the "Sponsor Fee"), which will accrue daily and will be payable in bitcoin and ether monthly in arrears. The Administrator will calculate the Sponsor Fee on a daily basis by applying an annualized rate to the Trust's total bitcoin and ether holdings, and the amount of bitcoin and ether payable in respect of each daily accrual shall be determined by reference to the Pricing Benchmarks. Financial institutions authorized to create and redeem Shares (each, an "Authorized Participant") will deliver, or cause to be delivered, cash in exchange for Shares of the Trust, and the Trust will deliver cash to Authorized Participants when those Authorized Participants redeem Shares of the Trust.

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[10] The Pricing Benchmarks are calculated by CF Benchmarks Ltd. (the "Benchmark Provider") based on an aggregation of executed trade flow of major bitcoin and ether trading platforms. As further discussed below, the Pricing Benchmarks are designed to provide a daily, 4:00 p.m. Eastern Time ("E.T.") reference rate of the U.S. dollar price of one bitcoin or one ether that may be used to develop financial products.

[11] The Trust conducts creations and redemptions of its Shares for cash. Authorized Participants (defined below) will deliver cash to the Cash Custodian pursuant to creation orders for Shares and the Cash Custodian will hold such cash until such time as it can be converted to bitcoin or ether, which the Trust intends to do on the same business day in which such cash is received by the Cash Custodian. Additionally, the Trust will sell bitcoin and ether in exchange for cash pursuant to redemption orders of its Shares. In connection with such sales, an approved Digital Asset Trading Counterparty (defined below) will send cash to the Cash Custodian. The Cash Custodian will hold such cash until it can be distributed to the redeeming Authorized Participant, which it intends to do on the same business day in which it is received. In connection with the purchases and sales of bitcoin and ether pursuant to its creation and redemption activity, it is possible that the Trust may retain de minimis amounts of cash as a result of rounding differences. The Trust may also initially hold small amounts of cash to initiate Trust operations in the immediate aftermath of its Registration Statement being declared effective. Lastly, the Trust may also sell bitcoin and ether and temporarily hold cash as part of a liquidation of the Trust or to pay certain extraordinary expenses not assumed by the Sponsor. Under the Trust Agreement, the Sponsor has agreed to assume the normal operating expenses of the Trust, subject to certain limitations. For example, the Trust will bear any indemnification or litigation liabilities as extraordinary expenses. In any event, in the ongoing course of business, the amounts of cash retained by the Trust are not expected to constitute a material portion of the Trust's holdings.

[12] The Trust may, from time to time, passively receive, by virtue of holding ether, certain additional digital assets ("IR Assets") or rights to receive IR Assets ("Incidental Rights") through a fork of the Bitcoin network or Ethereum network or an airdrop of assets. The Trust will not seek to acquire such IR Assets or Incidental Rights. Pursuant to the terms of the Trust Agreement, the Trust has disclaimed ownership in any such IR Assets and/or Incidental Rights to make clear that such assets are not and shall never be considered assets of the Trust and will not be taken into account for purposes of determining the Trust's NAV or NAV per Share. Neither the Trust, nor the Sponsor, nor the Bitcoin and Ether Custodian, nor any other person associated with the Trust will, directly or indirectly, engage in action where any portion of the Trust's ether becomes subject to the Ethereum proof-of-stake validation or is used to earn additional ether or generate income or other earnings.

Custody of the Trust's Bitcoin and Ether

The Trust's Bitcoin and Ether Custodian will maintain custody of all of the Trust's bitcoin and ether, other than that which is maintained in a trading account (the "Trading Balance") with Coinbase, Inc. (the "Prime Execution Agent," which is an affiliate of the Bitcoin and Ether Custodian). The Bitcoin and Ether Custodian will maintain an account that holds the Trust's bitcoin (the "Trust Bitcoin Account") and an account that holds the Trust's ether (the "Trust Ether Account," and together with the Trust Bitcoin Account, the "Trust Digital Asset Accounts"), and will facilitate the transfer of bitcoin and ether required for the operation of the Trust. The Trading Balance will only be used in the limited circumstances in which the Trust is using the Agent Execution Model (as defined below) to effectuate the purchases and sales of bitcoin or ether. The Bitcoin and Ether Custodian provides safekeeping of bitcoin and ether using a multi-layer cold storage security platform designed to provide offline security of the bitcoin and ether held by the Bitcoin and Ether Custodian.

Valuation of the Trust's Bitcoin and Ether

The net assets of the Trust and its Shares are valued on a daily basis with reference to the Pricing Benchmarks, which are standardized reference rates published by the Benchmark Provider designed to reflect the performance of bitcoin and ether in U.S. dollars. The Bitcoin Pricing Benchmark and Ether Pricing Benchmark were created to facilitate financial products based on bitcoin and ether, respectively. The Bitcoin Pricing Benchmark serves as a once-a-day benchmark rate of the U.S. dollar price of bitcoin (USD/BTC), and the Ether Pricing Benchmark serves as a once-a-day benchmark rate of the U.S. dollar price of ether (USD/ETH), each calculated as of 4:00 p.m. E.T. The Bitcoin Pricing Benchmark aggregates the trade flow of several major bitcoin trading venues, and the Ether Pricing Benchmark aggregates the trade flow of several major ether trading venues, each during an observation window between 3:00 p.m. and 4:00 p.m. E.T. into the U.S. dollar price of one bitcoin or ether, as applicable, at 4:00 p.m. E.T.

The Bitcoin Pricing Benchmark uses the same methodology as the CME CF Bitcoin Reference Rate ("BRR"), which was designed by the CME Group and the Benchmark Provider to facilitate the cash settlement of bitcoin futures contracts traded on the Chicago Mercantile Exchange ("CME").[13] The CME Group also publishes the CME CF Bitcoin Real Time Index (the "CME Bitcoin Real Time Price"), which is a continuous measure of the U.S. dollar price of one bitcoin calculated once per second. Similarly, the Ether Pricing Benchmark uses the same methodology as the CME CF Ether-Dollar Reference Rate ("ERR"), which was designed by the CME Group and the Benchmark Provider to facilitate the cash settlement of ether futures contracts traded on the CME.[14]

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[13] The only material difference between the Bitcoin Pricing Benchmark and the BRR is that the BRR measures the U.S. dollar price of one bitcoin as of 4:00 p.m. London time and the Bitcoin Pricing Benchmark measures the U.S. dollar price of one bitcoin as of 4:00 p.m. E.T.

[14] The only material difference between the Ether Pricing Benchmark and ERR is that the ERR measures the U.S. dollar price of one ether as of 4:00 p.m. London time, and the Pricing Index measures the U.S. dollar price of one ether as of 4:00 p.m. E.T.

The CME Group also publishes the CME CF Ether Real Time Index (the "CME Ether Real Time Price"), which is a continuous measure of the U.S. dollar price of one ether calculated once per second. Each of the Pricing Benchmarks, BRR, ERR, CME Bitcoin Real Time Price, and CME Ether Real Time Price are representative of the bitcoin or ether trading activity, as applicable, on the Constituent Platforms,[15] which include, as of the date of this filing, Bitstamp, Coinbase, Gemini, itBit, LMAX, and Kraken.

The Trust uses the Pricing Benchmarks to calculate its NAV, as described below in "Net Asset Value."

The Sponsor, in its sole discretion, may cause the Trust to price its portfolio based upon an index, benchmark, or standard other than the Pricing Benchmarks at any time, with prior notice to the shareholders, if investment conditions change or the Sponsor believes that another index, benchmark, or standard better aligns with the Trust's investment objective and strategy. The Sponsor may make this decision for a number of reasons, including, but not limited to, a determination that the Pricing Benchmarks price of bitcoin or ether differs materially from the global market price of bitcoin or ether and/or that third parties are able to purchase and sell bitcoin or ether on public or private markets not included among the Constituent Platforms, and such transactions may take place at prices materially higher or lower than the Pricing Benchmarks price. The Sponsor, however, is under no obligation whatsoever to make such changes in any circumstance. In the event that the Sponsor intends to establish the Trust's NAV by reference to an index, benchmark, or standard other than the Pricing Benchmarks, it will provide shareholders with notice in a prospectus supplement and/or through a current report on Form 8-K or in the Trust's annual or quarterly reports.[16]

Net Asset Value

The Trust's only assets will be bitcoin and ether and, under limited circumstances, cash. The Trust's NAV and NAV per Share will be determined by the Administrator once each Exchange trading day as of 4:00 p.m. E.T., or as soon thereafter as practicable. The Administrator will calculate the NAV by multiplying the number of bitcoin and ether held by the Trust by the Bitcoin Pricing Benchmark or Ether Pricing Benchmark, respectively, for such day, adding any additional receivables and subtracting the accrued but unpaid liabilities of the Trust. The NAV per Share is calculated by dividing the NAV by the number of Shares then outstanding. The Administrator will determine the price of the Trust's bitcoin and ether by reference to the Pricing Benchmarks, which are published and calculated as set forth above.

Intraday Trust Value

The Trust uses the CME Bitcoin Real Time Price and CME Ether Real Time Price to

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[15] The "Constituent Platforms" are the bitcoin and ether trading venues included in the Pricing Benchmarks.

[16] The Sponsor will provide notice of any such changes in the Trust's periodic or current reports and, if the Sponsor makes such a change other than on an ad hoc or temporary basis, will file a proposed rule change with the Commission.

calculate an Indicative Trust Value ("ITV"). One or more major market data vendors will disseminate the ITV, updated every 15 seconds each trading day as calculated by the Exchange or a third-party financial data provider during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m., E.T.). The ITV will be calculated throughout the trading day by using the prior day's holdings at the close of business and the most recently reported price level of the CME Bitcoin Real Time Price and CME Ether Real Time Price. The ITV will be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session.

Creation and Redemption of Shares

The Trust creates and redeems Shares from time to time, but only in one or more Creation Units, which will initially consist of at least 10,000 Shares, but may be subject to change ("Creation Unit"). A Creation Unit is only made in exchange for delivery to the Trust or the distribution by the Trust of an amount of cash, equivalent to the value of ether represented by the Creation Unit being created or redeemed, the amount of which is representative of the combined NAV of the number of Shares included in the Creation Units being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem Creation Units is properly received. Except when aggregated in Creation Units or under extraordinary circumstances permitted under the Trust Agreement, the Shares are not redeemable securities.

Authorized Participants are the only persons that may place orders to create and redeem Creation Units. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (2) Depository Trust Company ("DTC") participants. To become an Authorized Participant, a person must enter into an Authorized Participant Agreement with the Trust and/or the Trust's marketing agent (the "Marketing Agent").

According to the Registration Statement, when purchasing or selling ether in response to the purchase of Creation Units or the redemption of Creation Units, which will be processed in cash, the Trust would do so pursuant to either (1) a "Trust-Directed Trade Model," or (2) an "Agent Execution Model," which are each described in more detail below.

The Trust intends to utilize the Trust-Directed Trade Model for all purchases and sales of bitcoin and ether and would only utilize the Agent Execution Model in the event that no digital asset trading counterparty approved by the Sponsor (a "Digital Asset Trading Counterparty")[17] is able to effectuate the Trust's purchase or sale of bitcoin or ether. Under the Trust-Directed Trade Model, in connection with receipt of a purchase order or redemption order, the Sponsor, on behalf of the Trust, would be responsible for acquiring bitcoin and ether from an approved Digital Asset Trading Counterparty in an amount

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[17]   The Digital Asset Trading Counterparties with which the Sponsor will engage in ether transactions are unaffiliated third parties that are not acting as agents of the Trust, the Sponsor or the Authorized Participant, and all transactions will be done on an arms-length basis. There is no contractual relationship between the Trust, the Sponsor or the Digital Asset Trading Counterparty.

equal to the Basket Amount. When seeking to purchase bitcoin and ether on behalf of the Trust, the Sponsor will seek to purchase bitcoin and ether at commercially reasonable prices and terms from any of the approved Digital Asset Trading Counterparties.[18] Once agreed upon, the transaction will generally occur on an "over-the-counter" basis.

Whether utilizing the Trust-Directed Trade Model or the Agent Execution Model, the Authorized Participants will deliver only cash to create shares and will receive only cash when redeeming Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive bitcoin or ether as part of the creation or redemption process or otherwise direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving bitcoin or ether as part of the creation or redemption process. Additionally, under either the Trust-Directed Trade Model or the Agent Execution Model, the Trust will create Shares by receiving bitcoin and ether from a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust -- not the Authorized Participant -- is responsible for selecting the third party to deliver the bitcoin and ether. The third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the bitcoin and ether to the Trust or acting at the direction of the Authorized Participant with respect to the delivery of the bitcoin and ether to the Trust. Additionally, the Trust will redeem Shares by delivering bitcoin and ether to a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust -- not the Authorized Participant -- is responsible for selecting the third party to receive the bitcoin and ether. Finally, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the bitcoin or ether from the Trust or acting at the direction of the Authorized Participant with respect to the receipt of the bitcoin or ether from the Trust.

Acquiring and Selling Ether Pursuant to Creation and Redemption of Shares Under the Trust-Directed Trade Model

Under the Trust-Directed Trade Model and as set forth in the Registration Statement, on any business day, an Authorized Participant may create Shares by placing an order to purchase one or more Creation Units with the Transfer Agent through the Marketing Agent. Such orders are subject to approval by the Marketing Agent and the Transfer Agent. For purposes of processing creation and redemption orders, a "business day" means any day other than a day when the Exchange is closed for regular trading ("Business Day"). To be processed on the date submitted, creation orders must be placed before 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, but may be required to be placed earlier at the discretion of the Sponsor. A purchase order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent ("Purchase Order Date").

Creation Units are processed in cash. By placing a purchase order, an Authorized Participant agrees to deposit, or cause to be deposited, an amount of cash equal to the quantity of bitcoin and ether attributable to each Share of the Trust (net of accrued but

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[18]   The Sponsor will maintain ownership and control of bitcoin and ether in a manner consistent with good delivery requirements for spot commodity transactions.

unpaid expenses and liabilities) multiplied by the number of Shares (10,000) comprising a Creation Unit (the "Basket Amount"). The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the Basket Amount relating to a Creation Unit applicable for such Business Day. That amount is derived by multiplying the Basket Amount by the value of bitcoin and ether ascribed by the Pricing Index. However, the Authorized Participant is also responsible for any additional cash required to account for the price at which the Trust agrees to purchase the requisite amount of bitcoin and ether from a Digital Asset Trading Counterparty to the extent it is greater than the Pricing Index price on each Purchase Order Date.

Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the creation order. Authorized Participants may not withdraw a creation request. If an Authorized Participant fails to consummate the foregoing, the order may be cancelled.

Following the acceptance of a purchase order, the Authorized Participant must wire the cash amount described above to the Cash Custodian, and the Digital Asset Trading Counterparty must deposit the required amount of bitcoin and ether with the Bitcoin and Ether Custodian by the end of the day E.T. on the Business Day following the Purchase Order Date. The bitcoin and ether will be purchased from Digital Asset Trading Counterparties that are not acting as agents of the Trust or agents of the Authorized Participant. These transactions will be done on an arms-length basis, and there is no contractual relationship between the Trust, the Sponsor, or the Digital Asset Trading Counterparty to acquire such bitcoin and ether. Prior to any movement of cash from the Cash Custodian to the Digital Asset Trading Counterparty or movement of Shares from the Transfer Agent to the Authorized Participant's DTC account to settle the transaction, the bitcoin and ether must be deposited at the Bitcoin and Ether Custodian.

The Digital Asset Trading Counterparty must deposit the required amount of bitcoin and ether by end of day E.T. on the Business Day following the Purchase Order Date prior to any movement of cash from the Cash Custodian or Shares from the Transfer Agent. Upon receipt of the deposit amount of bitcoin and ether at the Bitcoin and Ether Custodian from the Digital Asset Trading Counterparty, the Bitcoin and Ether Custodian will notify the Sponsor that the bitcoin and ether have been received. The Sponsor will then notify the Transfer Agent that the bitcoin and ether have been received, and the Transfer Agent will direct DTC to credit the number of Shares ordered to the Authorized Participant's DTC account and will wire the cash previously sent by the Authorized Participant to the Digital Asset Trading Counterparty to complete settlement of the Purchase Order and the acquisition of the bitcoin and ether by the Trust, as described above.

As between the Trust and the Authorized Participant, the expense and risk of the difference between the value of bitcoin and ether calculated by the Administrator for daily valuation using the Pricing Benchmarks and the price at which the Trust acquires the bitcoin and ether will be borne solely by the Authorized Participant to the extent that the Trust pays more for bitcoin and ether than the price used by the Trust for daily valuation. Any such additional cash amount will be included in the amount of cash

calculated by the Administrator on the Purchase Order Date, communicated to the Authorized Participant on the Purchase Order Date, and wired by the Authorized Participant to the Cash Custodian on the day following the Purchase Order Date. If the Digital Asset Trading Counterparty fails to deliver the bitcoin and ether to the Bitcoin and Ether Custodian, no cash is sent from the Cash Custodian to the Digital Asset Trading Counterparty, no Shares are transferred to the Authorized Participant's DTC account, the cash is returned to the Authorized Participant, and the Purchase Order is cancelled.

Under the Trust-Directed Trade Model and according to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Transfer Agent through the Marketing Agent to redeem one or more Creation Units. To be processed on the date submitted, redemption orders must be placed before 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, or earlier as determined by the Sponsor. A redemption order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent ("Redemption Order Date"). The redemption procedures allow Authorized Participants to redeem Creation Units and do not entitle an individual shareholder to redeem any Shares in an amount less than a Creation Unit, or to redeem Creation Units other than through an Authorized Participant. In connection with receipt of a redemption order accepted by the Marketing Agent and Transfer Agent, the Sponsor, on behalf of the Trust, is responsible for selling the bitcoin and ether to an approved Digital Asset Trading Counterparty in an amount equal to the Basket Amount.

The redemption distribution from the Trust will consist of a transfer to the redeeming Authorized Participant, or its agent, of the amount of cash the Trust received in connection with a sale of the Basket Amount of bitcoin and ether to a Digital Asset Trading Counterparty made pursuant to the redemption order. The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the redemption distribution amount relating to a Creation Unit applicable for such Business Day. The redemption distribution amount is derived by multiplying the Basket Amount by the value of bitcoin and ether ascribed by the Pricing Benchmarks. However, as between the Trust and the Authorized Participant, the expense and risk of the difference between the value of bitcoin and ether ascribed by the Pricing Benchmarks and the price at which the Trust sells the bitcoin and ether will be borne solely by the Authorized Participant to the extent that the Trust receives less for bitcoin and ether than the value ascribed by the Pricing Benchmarks. Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the redemption order.

The redemption distribution due from the Trust will be delivered by the Transfer Agent to the Authorized Participant once the Cash Custodian has received the cash from the Digital Asset Trading Counterparty. The Bitcoin and Ether Custodian will not send the Basket Amount of bitcoin and ether to the Digital Asset Trading Counterparty until the Cash Custodian has received the cash from the Digital Asset Trading Counterparty and is instructed by the Sponsor to make such transfer. Once the Digital Asset Trading

Counterparty has sent the cash to the Cash Custodian in an agreed upon amount to settle the agreed upon sale of the Basket Amount of bitcoin and ether, the Transfer Agent will notify the Sponsor. The Sponsor will then notify the Bitcoin and Ether Custodian to transfer the bitcoin and ether to the Digital Asset Trading Counterparty, and the Transfer Agent will wire the cash proceeds to the Authorized Participant once the Trust's DTC account has been credited with the Shares represented by the Creation Unit from the redeeming Authorized Participant. Once the Authorized Participant has delivered the Shares represented by the Creation Unit to be redeemed to the Trust's DTC account, the Cash Custodian will wire the requisite amount of cash to the Authorized Participant. If the Trust's DTC account has not been credited with all of the Shares of the Creation Unit to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms receipt of all such Shares. If the Digital Asset Trading Counterparty fails to deliver the cash to the Cash Custodian, the transaction will be cancelled, and no transfer of bitcoin or ether or Shares will occur.

<u>Acquiring and Selling Ether Pursuant to Creation and Redemption of Shares Under the Agent Execution Model</u>

Under the Agent Execution Model, the Prime Execution Agent, acting in an agency capacity, would conduct bitcoin and ether purchases and sales on behalf of the Trust with third parties through its Coinbase Prime service pursuant to the Prime Execution Agent Agreement. To utilize the Agent Execution Model, the Trust may maintain some bitcoin, ether, or cash in the Trading Balance with the Prime Execution Agent. The Prime Execution Agent Agreement provides that the Trust does not have an identifiable claim to any particular bitcoin or ether (and cash); rather, the Trust's Trading Balance represents an entitlement to a pro rata share of the bitcoin or ether (and cash) the Prime Execution Agent holds on behalf of customers who hold similar entitlements against the Prime Execution Agent. In this way, the Trust's Trading Balance represents an omnibus claim on the Prime Execution Agent's bitcoin or ether (and cash) held on behalf of the Prime Execution Agent's customers.

To avoid having to pre-fund purchases or sales of bitcoin or ether in connection with cash creations and redemptions and sales of bitcoin or ether to pay Trust expenses not assumed by the Sponsor, to the extent applicable, the Trust may borrow bitcoin, ether, or cash as trade credit ("Trade Credit") from Coinbase Credit, Inc. (the "Trade Credit Lender") on a short-term basis pursuant to the Coinbase Credit Committed Trade Financing Agreement (the "Trade Financing Agreement").

On the day of the Purchase Order Date, the Trust would enter into a transaction to buy bitcoin and ether through the Prime Execution Agent for cash. Because the Trust's Trading Balance may not be funded with cash on the Purchase Order Date for the purchase of bitcoin and ether in connection with the Purchase Order under the Agent Execution Model, the Trust may borrow Trade Credits in the form of cash from the Trade Credit Lender pursuant to the Trade Financing Agreement or may require the Authorized Participant to deliver the required cash for the Purchase Order on the Purchase Order Date. The extension of Trade Credits on the Purchase Order Date allows the Trust to purchase bitcoin and ether through the Prime Execution Agent on the Purchase Order Date, with such bitcoin and ether being deposited in the Trust's Trading Balance.

On the day following the Purchase Order Date (the "Purchase Order Settlement Date"), the Trust would deliver Shares to the Authorized Participant in exchange for cash received from the Authorized Participant. Where applicable, the Trust would use the cash to repay the Trade Credits borrowed from the Trade Credit Lender. On the Purchase Order Settlement Date for a Purchase Order utilizing the Agent Execution Model, the bitcoin and ether associated with the Purchase Order and purchased on the Purchase Order Date is swept from the Trust's Trading Balance with the Prime Execution Agent to the Trust Digital Asset Account with the Bitcoin and Ether Custodian pursuant to a regular end-of-day sweep process. Transfers of bitcoin and ether into the Trust's Trading Balance are off-chain transactions and transfers from the Trust's Trading Balance to the Trust Digital Asset Account are "on-chain" transactions represented on the bitcoin and ether blockchains, as applicable. Any financing fee owed to the Trade Credit Lender is deemed part of trade execution costs and embedded in the trade price for each transaction.

For a Redemption Order utilizing the Agent Execution Model, on the day of the Redemption Order Date the Trust would enter into a transaction to sell bitcoin and ether through the Prime Execution Agent for cash. The Trust's Trading Balance with the Prime Execution Agent may not be funded with bitcoin and ether on trade date for the sale of bitcoin and ether in connection with the redemption order under the Agent Execution Model, when bitcoin and ether remains in the Trust Digital Asset Account with the Bitcoin and Ether Custodian at the point of intended execution of a sale of bitcoin and ether. In those circumstances the Trust may borrow Trade Credits in the form of bitcoin and ether from the Trade Credit Lender, which allows the Trust to sell bitcoin and ether through the Prime Execution Agent on the Redemption Order Date, and the cash proceeds are deposited in the Trust's Trading Balance with the Prime Execution Agent. On the business day following the Redemption Order Date (the "Redemption Order Settlement Date") for a redemption order utilizing the Agent Execution Model where Trade Credits were utilized, the Trust delivers cash to the Authorized Participant in exchange for Shares received from the Authorized Participant. In the event Trade Credits were used, the Trust will use the bitcoin and ether that is moved from the Trust Digital Asset Account with the Bitcoin and Ether Custodian to the Trading Balance with the Prime Execution Agent to repay the Trade Credits borrowed from the Trade Credit Lender.

For a redemption of Creation Units utilizing the Agent Execution Model, the Sponsor would instruct the Bitcoin and Ether Custodian to prepare to transfer the bitcoin and ether associated with the redemption order from the Trust Digital Asset Account with the Bitcoin and Ether Custodian to the Trust's Trading Balance with the Prime Execution Agent. On the Redemption Order Settlement Date, the Trust would enter into a transaction to sell bitcoin and ether through the Prime Execution Agent for cash, and the Prime Execution Agent credits the Trust's Trading Balance with the cash. On the same day, the Authorized Participant would deliver the necessary Shares to the Trust and the Trust delivers cash to the Authorized Participant.

Background on Bitcoin

Bitcoin is the digital asset that is native to, and created and transmitted through the operations of, the peer-to-peer "Bitcoin network," a decentralized network of computers that operates on cryptographic protocols. No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by a decentralized user base. The Bitcoin network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as the "Bitcoin blockchain." Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on digital asset trading platforms or in individual end-user-to-end-user transactions under a barter system. Although nascent in use, bitcoin may be used as a medium of exchange, unit of account or store of value.

The Bitcoin network is decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of bitcoin. In addition, no party may easily censor transactions on the Bitcoin network. As a result, the Bitcoin network is often referred to as decentralized and censorship resistant.
The value of bitcoin is determined by the supply of and demand for bitcoin. New bitcoin are created and rewarded to the parties providing the Bitcoin network's infrastructure ("miners") in exchange for their expending computational power to verifying transactions and add them to the Bitcoin blockchain. The Bitcoin blockchain is effectively a decentralized database that includes all blocks that have been solved by miners and it is updated to include new blocks as they are solved. Each bitcoin transaction is broadcast to the Bitcoin network and, when included in a block, recorded in the Bitcoin blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Bitcoin blockchain represents a complete, transparent and unbroken history of all transactions of the Bitcoin network.

The CME Bitcoin Futures Market

The CME Group announced the planned launch of bitcoin futures on October 31, 2017. Trading began on December 17, 2017.[19] Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate. The contracts trade and settle like other cash settled commodity futures contracts.

Nearly every measurable metric related to bitcoin futures has trended up since launch.

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[19] See "CME Group Announces Launch of Bitcoin Futures," October 31, 2017, available at https://www.cmegroup.com/media-room/press-releases/2017/10/31/cme_group_announceslaunchofbitcoinfutures.html. At the same time as the launch of the CME Market, the Cboe Futures Exchange, LLC announced and subsequently launched Cboe bitcoin futures. See "CFE to Commence Trading in Cboe Bitcoin (USD) Futures Soon," December 01, 2017, available at cdn.cboe.com/resources/release_notes/2017/Cboe-Bitcoin-USD-Futures-Launch-Notification.pdf. Each future was cash settled, with the CME Market tracking the CME UK Reference Rate and the Cboe bitcoin futures tracking a bitcoin trading platform daily auction price. The Cboe Futures Exchange, LLC subsequently discontinued its bitcoin futures market effective June 2019. "Cboe put the brakes on bitcoin futures," March 15, 2019, available at https://www.reuters.com/article/us-cboe-bitcoin/cboe-puts-the-brakes-on-bitcoin-futures-idUSKCN1QW261. The Trust uses the CME US Reference Rate to calculate its NAV.

For example, there were 348,635 bitcoin futures contracts traded in September 2024 (approximately $110.6 billion) compared to 192,620 ($26.0 billion) contracts, 279,859 contracts ($27.3 billion), 159,803 contracts ($34.8 billion), and 201,893 contracts ($10.8 billion) traded in September 2023, September 2022, September 2021, and September 2020, respectively.[20]

Open interest was 39,590 bitcoin futures contracts in September 2024 (approximately $12.6 billion) compared to 15,014 contracts ($2.0 billion), 14,867 contracts ($1.4 billion), 7,276 contracts ($1.6 billion), and 7,487 contracts ($0.4 billion) traded in September 2023, September 2022, September 2021, and September 2020, respectively.[21]

The number of large open interest holders[22] has increased as well, even in the face of heightened bitcoin price volatility, as demonstrated in the figure that follows.[23]

CME Bitcoin Futures Large Open Interest Holders (LOIH)

The Commodity Futures Trading Commission ("CFTC") regulates the CME bitcoin futures market, and both the Exchange and CME are members of the Intermarket

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[20]   Data from CME Volume and Average Daily Volume Reports, available at https://www.cmegroup.com/market-data/volume-open-interest.html#volumeTotals

[21]   Data from CME Open Interest Reports, available at https://www.cmegroup.com/market-data/volume-open-interest.html#openInterestTools

[22]   A large open interest holder in bitcoin futures is an entity that holds at least 25 contracts, which is the equivalent of 125 bitcoin. At a price of approximately $64,300.87 per bitcoin on 9/24/2024, more than 115 firms had outstanding positions of greater than $8.04 million in bitcoin futures. Data from The Block, available at https://www.theblock.co/data/crypto-markets/cme-cots/large-open-interest-holders-of-cme-bitcoin-futures.

[23]   Data from 4/10/2018 to 10/22/24, from The Block.

Surveillance Group ("ISG").[24]

Background on Ethereum

Ethereum is free software that is hosted on computers distributed throughout the globe. Ethereum employs an array of computer code-based logic, called a protocol, to create a unified understanding of ownership, commercial activity, and economic logic. This allows users to engage in commerce without the need to trust any of its participants or counterparties. Ethereum code creates verifiable and unambiguous rules that assign clear, strong property rights to create a platform for unrestrained business formation and free exchange. No single intermediary or entity operates or controls the Ethereum network, the transaction validation and recordkeeping infrastructure of which is collectively maintained by a disparate user base. The Ethereum network allows people to exchange tokens of value, or ether, which are recorded on a distributed, public recordkeeping system or ledger known as a blockchain, and which can be used to pay for goods and services, including computational power on the Ethereum network, or converted to fiat currencies, such as the U.S. dollar, at rates determined on spot trading platforms or in individual peer-to-peer transactions. By combining the recordkeeping system of the Ethereum blockchain with a flexible scripting language that can be used to implement a wide variety of instructions, the Ethereum network is intended to act as a public computational layer on top of which users can build their own public software programs, as an alternative to centralized web services. On the Ethereum network, ether is the unit of account that users pay for the computational resources consumed by running programs of their choice.

CME Ether Futures Market

CME began offering trading in ether futures on February 8, 2021.[25] Each contract represents fifty ether and is based on the ERR. The contracts trade and settle like other cash settled commodity futures contracts.

Most measurable metrics related to CME ether futures have trended up since launch. For example, there were 95,261 CME ether futures contracts traded in September 2024 (approximately $12.4 billion) compared to 78,571 contracts ($6.6 billion), 163,114 contracts ($10.9 billion), and 130,546 contracts ($19.5 billion) traded in September 2023, September 2022, and September 2021, respectively. In the first month of trading, there were 11,637 billion contracts ($0.8 billion) traded.[26]

Open interest was 6,746 CME ether futures contracts in September 2024 (approximately

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[24] For a list of the current members and affiliate members of ISG, see https://www.isgportal.com/.

[25] See "CME Group Announces Launch of Ether Futures," February 8, 2021, available at https://www.cmegroup.com/media-room/press-releases/2021/2/08/cme_group_announceslaunchofetherfutures.html.

[26] Data from CME Volume and Average Daily Volume Reports, available at https://www.cmegroup.com/market-data/volume-open-interest.html#volumeTotals.

$875.1 million) compared to 4,577 contracts ($384.3 million), 5,035 contracts ($336.8 million), and 4,388 contracts ($656.8 million) in September 2023, September 2022, and September 2021, respectively.[27]

The number of large open interest holders[28] has increased as well, as demonstrated in the figure that follows.[29]
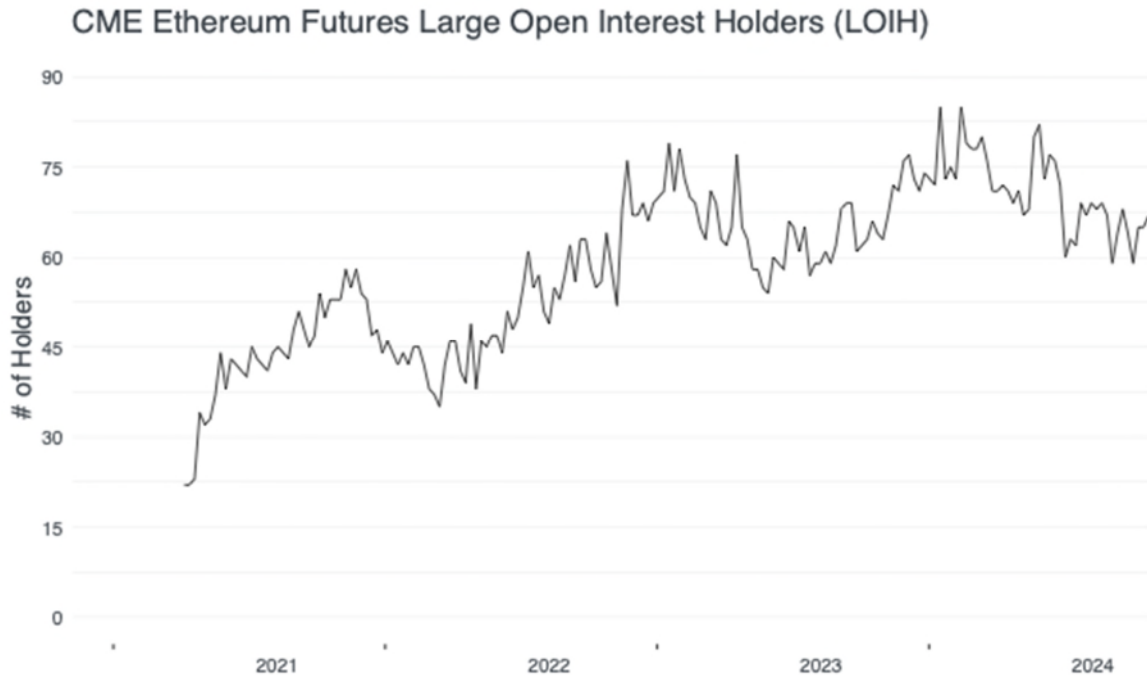
CME Ethereum Futures Large Open Interest Holders (LOIH)

The CFTC regulates the CME ether futures market, and both the Exchange and CME are members of the ISG.

Applicable Standard

The Commission has historically approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot, Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity to be held.[30] However, the Commission recently approved the listing and

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[27]   Data from CME Open Interest Reports, available at https://www.cmegroup.com/market-data/volume-openinterest.html#openInterestTools.

[28]   A large open interest holder in ether futures is an entity that holds at least 25 contracts, which is the equivalent of 1250 ether. Data from The Block, available at https://www.theblock.co/data/crypto-markets/cme-cots/large-open-interest-holders-of-cme-ether-futures.

[29]   Data from 4/10/2018 to 10/22/2024, from The Block.

[30]   See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (SR-BatsBZX-2016-30) (Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to List and Trade Shares of the Winklevoss

trading of shares of spot bitcoin exchange-traded products ("Spot Bitcoin ETPs") and spot ether exchange-traded products ("Spot Ether ETPs"), finding that there were sufficient "other means" of preventing fraud and manipulation sufficient to satisfy the requirements of Section 6(b)(5) of the Exchange Act.[31] In each of the Spot Bitcoin ETP Approval Order and Spot Ether Approval Order, the Commission concluded, through a robust correlation analysis, that fraud or manipulation that impacts prices in spot bitcoin markets or spot ether markets would likely similarly impact CME bitcoin futures prices and CME ether futures prices, respectively.[32] The Commission further found that, because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices and CME ether futures prices, a listing exchange's comprehensive surveillance sharing agreement ("CSSA") with the CME can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the context of the Spot Bitcoin ETPs and Spot Ether ETPs.[33]

The Trust is structured and will operate in a manner materially the same as the Spot Bitcoin ETPs and Spot Ether ETPs.[34] The Sponsor believes that the Exchange's ability to obtain information regarding trading in bitcoin futures and ether futures from the CME, which, like the Exchange, is a member of the ISG, would assist the Exchange in detecting potential fraud or manipulation with respect to trading in the Shares. The Sponsor thus believes that, for reasons similar to those set forth in the Spot Bitcoin ETP Approval Order and Spot Ether ETP Approval Order, listing and trading Shares of the Fund would be consistent with the requirements of the Act.

Bitcoin Trust) ("Winklevoss Order"). In the Winklevoss Order, the Commission set forth both the importance and definition of a surveilled, regulated market of significant size, explaining that, for approved commodity-trust ETPs, "there has been in every case at least one significant, regulated market for trading futures on the underlying commodity—whether gold, silver, platinum, palladium, or copper —and the ETP listing exchange has entered into surveillance-sharing agreements with, or held Intermarket Surveillance Group membership in common with, that market." Winklevoss Order, 83 FR at 37594.

[31] See Securities Exchange Act Release No. 34-99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (SR-NYSEARCA-2021-90; SR-NYSEARCA-2023-44; SRNYSEARCA-2023-58; SR-NASDAQ-2023-016; SR-NASDAQ-2023-019; SR-CboeBZX-2023028; SR-CboeBZX-2023-038; SR-CboeBZX-2023-040; SR-CboeBZX-2023-042; SRCboeBZX-2023-044; SR-CboeBZX-2023-072) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the "Spot Bitcoin ETP Approval Order"); Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEARCA-2023-70; SR-NYSEARCA-2024-31; SR- NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023- 087; SR-CboeBZX-2023-095; SR-CboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) (the "Spot Ether ETP Approval Order")..

[32] See Spot Bitcoin ETP Approval Order, 89 FR at 3010; Spot Ether ETP Approval Order, 89 FR at 46938.

[33] See Spot Bitcoin ETP Approval Order, 89 FR at 3010; Spot Ether ETP Approval Order, 89 FR at 46938-39.

[34] The Sponsor is also the sponsor of the Bitwise Bitcoin ETF and the Bitwise Ethereum ETF, which were approved pursuant to the Spot Bitcoin ETP Approval Order and Spot Ether ETP Approval, respectively, and which are both currently listed and traded on NYSE Arca.

Availability of Information

The NAV per Share will be calculated and disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The ITV will be calculated every 15 seconds throughout the Core Trading Session each trading day.

The Sponsor will cause information about the Shares to be posted to the Trust's website (https://www.bitwiseinvestments.com/): (1) the NAV and NAV per Share for each Exchange trading day, posted at end of day; (2) the daily holdings of the Trust, before 9:30 a.m. E.T. on each Exchange trading day; (3) the Trust's effective prospectus, in a form available for download; and (4) the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. For example, the Trust's website will include (1) the prior Business Day's trading volume, the prior Business Day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation ("Bid/Ask Price") against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge.

Investors may obtain on a 24-hour basis ether pricing information based on the Pricing Benchmarks, BRR, ERR, CME Bitcoin Real Time Price, CME Ether Real Time Price, spot bitcoin market prices, bitcoin futures prices, spot ether market prices, and ether futures prices from various financial information service providers. Current bitcoin spot market prices and ether spot market prices are also available with bid/ask spreads from bitcoin and ether trading platforms, including the Constituent Platforms of the Pricing Benchmarks.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.

Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Trust.[35] Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the

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[35] See NYSE Arca Rule 7.12-E.

dissemination of the ITV, CME Bitcoin Real Time Price, CME Ether Real Time Price, or Pricing Benchmarks (if the Exchange becomes aware that the Pricing Benchmarks are not being published) occurs.[36] If the interruption to the dissemination of the ITV, CME Bitcoin Real Time Price, CME Ether Real Time Price, or Pricing Benchmarks persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the Core Trading Session following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34-E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201-E. The trading of the Shares will be subject to NYSE Arca Rule 8.201-E(g), which sets forth certain restrictions on Equity Trading Permit ("ETP") Holders acting as registered Market Makers in Commodity-Based Trust Shares to facilitate surveillance.[37] The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A-3 under the Act,[38] as provided by NYSE Arca Rule 5.3-E. A minimum of 100,000 Shares of the Trust will be outstanding at the commencement of trading on the Exchange.

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[36]   A limit up/limit down condition in the futures market would not be considered an interruption requiring the Trust to be halted.

[37]   Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its accounts for trading in the underlying commodity, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares). As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

[38]   17 CFR 240.10A-3. See note 7, supra.

Surveillance

The Exchange represents that trading in the Shares of the Trust will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[39] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from markets and other entities or with which the Exchange has in place a CSSA. The Exchange is also able to obtain information regarding trading in the Shares and any underlying bitcoin, bitcoin derivatives, ether, or ether derivatives in connection with ETP Holders' proprietary trades or customer trades effected through ETP Holders on any relevant market. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its accounts for trading in any underlying commodity, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares). As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts and that subsidiary or affiliate is a member of another regulatory organization, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations to the

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[39]   FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

extent the Exchange has such an agreement with an organization of which the subsidiary or affiliate is a member.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the index, portfolio, or reference asset of the Trust, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The Sponsor has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an "Information Bulletin" of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the procedures for creations of Shares in Creation Units; (2) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) information regarding how the value of the ITV and NAV is disseminated; (4) the possibility that trading spreads and the resulting premium or discount on the Shares may widen during the Opening and Late Trading Sessions, when an updated ITV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction and (6) trading information.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as described in the annual report. The Information Bulletin will disclose that information about the Shares of the Trust is publicly available on the Trust's website.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

(b) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[40] that an exchange have rules that are designed to prevent fraudulent and

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[40]   15 U.S.C. 78f(b)(5).

manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor Exchange trading in the Shares in all trading sessions and to deter and detect attempted manipulation of the Shares or other violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, bitcoin derivatives, and ether derivatives with other markets that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from such markets. In addition, the Exchange may obtain information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from markets that are members of ISG or with which the Exchange has in place a CSSA. The Exchange is also able to obtain information regarding trading in the Shares and any underlying bitcoin, bitcoin derivatives, ether, or ether derivatives through ETP Holders, in connection with such ETP Holders' proprietary trades or customer trades effected through ETP Holders on any relevant market.

The proposed rule change is also designed to prevent fraudulent and manipulative acts and practices because the Trust is structured similarly to and will operate in materially the same manner as the Spot Bitcoin ETPs and Spot Ether ETPs previously approved by the Commission. The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because, as noted by the Commission in the Bitcoin ETP Approval Order and Ether ETP Approval Order, the Exchange's ability to obtain information regarding trading in the Shares and futures from other markets that are members of the ISG (including the CME) would assist the Exchange in detecting and deterring misconduct. In particular, the CME bitcoin futures market and CME ether futures market are large, surveilled, and regulated markets that are closely connected with the spot markets for bitcoin and ether, respectively, through which the Exchange could obtain information to assist in detecting and deterring potential fraud or manipulation.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The Trust's website will also include a form of the prospectus for the Trust that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. The Trust's website will include (1) daily trading volume, the prior Business Day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the Bid/Ask Price against the NAV; and (ii) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly

available prior to the public offering of Shares and accessible at no charge.

Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of a new type of exchange-traded product based on the price of bitcoin and ether that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of a new type of Commodity-Based Trust Share based on the price of bitcoin and ether that would enhance competition among market participants, to the benefit of investors and the marketplace.

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

Written comments on the proposed rule change were neither solicited nor received.

6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of the Commission or of another self-regulatory organization.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. <u>Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act</u>

Not applicable.

11. <u>Exhibits</u>

Exhibit 1 – Form of Notice of Proposed Rule Change for <u>Federal</u> <u>Register</u>

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-   ; File No. SR-NYSEARCA-2024-104)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of the Bitwise Bitcoin and Ethereum ETF

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that, on November 26, 2024, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "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 list and trade shares of the Bitwise Bitcoin and Ethereum ETF (the "Trust") under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares). The proposed rule change is available on the Exchange's website at 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

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[1]   15 U.S.C. 78s(b)(1).

[2]   15 U.S.C. 78a.

[3]   17 CFR 240.19b-4.

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 list and trade shares ("Shares") of the Trust[4] pursuant to

NYSE Arca Rule 8.201-E, which governs the listing and trading of Commodity Based Trust

Shares.[5]

According to the Registration Statement, the Trust will not be registered as an investment

company under the Investment Company Act of 1940,[6] and is not required to register thereunder.

The Trust is not a commodity pool for purposes of the Commodity Exchange Act.[7]

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule

8.201-E and thereby qualify for listing on the Exchange.[8]

Operation of the Trust[9]

The Trust will issue the Shares which, according to the Registration Statement, represent

units of undivided beneficial ownership of the Trust. The Trust is a Delaware statutory trust and

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[4]   The Trust is a Delaware statutory trust. On November 26, 2024, the Trust filed with the Commission an initial registration statement (the "Registration Statement") on Form S-1 under the Securities Act of 1933 (15 U.S.C. 77a). The description of the operation of the Trust herein is based, in part, on the most recent Registration Statement. The Registration Statement is not yet effective, and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[5]   Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust.

[6]   15 U.S.C. 80a-1.

[7]   17 U.S.C. 1.

[8]   With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7).

[9]   The description of the operation of the Trust, the Shares, and the ether market contained herein is based, in part, on the Registration Statement. See note 4, supra.

will operate pursuant to a trust agreement (the "Trust Agreement") between Bitwise Investment

Advisers, LLC (the "Sponsor" or "Bitwise") and Delaware Trust Company, as the Trust's trustee

(the "Trustee"). Coinbase Custody Trust Company, LLC will maintain custody of the Trust's

bitcoin and ether (the "Bitcoin and Ether Custodian"). Bank of New York Mellon will be the

custodian for the Trust's cash holdings (in such role, the "Cash Custodian"), the administrator of

the Trust (in such role, the "Administrator"), and the transfer agent for the Trust (in such role, the

"Transfer Agent").

According to the Registration Statement, the investment objective of the Trust is to seek

to provide exposure to the value of bitcoin and ether held by the Trust, less the expenses of the

Trust's operations and other liabilities. The Trust's allocation of its assets to bitcoin and ether

will approximate the relative market capitalization of bitcoin and ether to one another.[10] In

seeking to achieve its investment objective, the Trust will hold bitcoin and ether and establish its

Net Asset Value ("NAV") at the end of every business day by reference to the CME CF Bitcoin

– New York Variant for its bitcoin holdings (the "Bitcoin Pricing Benchmark") and to the CME

CF Ether – Dollar Reference Rate – New York Variant for its ether holdings (the "Ether Pricing

Benchmark," and, with the Bitcoin Pricing Benchmark, the "Pricing Benchmarks").[11]

The Trust's only assets will be bitcoin, ether, and cash.[12] The Trust does not seek to hold

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[10]   As of the date of this filing, the relative market capitalization of bitcoin and ether is 83% bitcoin and 17% ether. The Trust will calculate the market capitalization of bitcoin and ether by multiplying the Pricing Benchmarks by the current circulating supply of bitcoin and ether respectively, as determined by the Sponsor, and will calculate the relative market capitalization by dividing each of bitcoin and ether's market capitalization by the combined market capitalization of both.

[11]   The Pricing Benchmarks are calculated by CF Benchmarks Ltd. (the "Benchmark Provider") based on an aggregation of executed trade flow of major bitcoin and ether trading platforms. As further discussed below, the Pricing Benchmarks are designed to provide a daily, 4:00 p.m. Eastern Time ("E.T.") reference rate of the U.S. dollar price of one bitcoin or one ether that may be used to develop financial products.

[12]   The Trust conducts creations and redemptions of its Shares for cash. Authorized Participants (defined below) will deliver cash to the Cash Custodian pursuant to creation orders for Shares and the Cash Custodian will hold such cash until such time as it can be converted to bitcoin or ether, which the Trust intends to do on the same business day in which such cash is received by the Cash Custodian.

any non-bitcoin or non-ether crypto assets and has expressly disclaimed ownership of any such

assets in the event the Trust ever involuntarily comes into possession of such assets.[13] The Trust

will not use derivatives that may subject the Trust to counterparty and credit risks. The Trust

will process creations and redemptions in cash. The Trust's only recurring ordinary expense is

expected to be the Sponsor's unitary management fee (the "Sponsor Fee"), which will accrue

daily and will be payable in bitcoin and ether monthly in arrears. The Administrator will

calculate the Sponsor Fee on a daily basis by applying an annualized rate to the Trust's total

bitcoin and ether holdings, and the amount of bitcoin and ether payable in respect of each daily

accrual shall be determined by reference to the Pricing Benchmarks. Financial institutions

authorized to create and redeem Shares (each, an "Authorized Participant") will deliver, or cause

to be delivered, cash in exchange for Shares of the Trust, and the Trust will deliver cash to

Authorized Participants when those Authorized Participants redeem Shares of the Trust.

Additionally, the Trust will sell bitcoin and ether in exchange for cash pursuant to redemption orders of its Shares. In connection with such sales, an approved Digital Asset Trading Counterparty (defined below) will send cash to the Cash Custodian. The Cash Custodian will hold such cash until it can be distributed to the redeeming Authorized Participant, which it intends to do on the same business day in which it is received. In connection with the purchases and sales of bitcoin and ether pursuant to its creation and redemption activity, it is possible that the Trust may retain de minimis amounts of cash as a result of rounding differences. The Trust may also initially hold small amounts of cash to initiate Trust operations in the immediate aftermath of its Registration Statement being declared effective. Lastly, the Trust may also sell bitcoin and ether and temporarily hold cash as part of a liquidation of the Trust or to pay certain extraordinary expenses not assumed by the Sponsor. Under the Trust Agreement, the Sponsor has agreed to assume the normal operating expenses of the Trust, subject to certain limitations. For example, the Trust will bear any indemnification or litigation liabilities as extraordinary expenses. In any event, in the ongoing course of business, the amounts of cash retained by the Trust are not expected to constitute a material portion of the Trust's holdings.

[13] The Trust may, from time to time, passively receive, by virtue of holding ether, certain additional digital assets ("IR Assets") or rights to receive IR Assets ("Incidental Rights") through a fork of the Bitcoin network or Ethereum network or an airdrop of assets. The Trust will not seek to acquire such IR Assets or Incidental Rights. Pursuant to the terms of the Trust Agreement, the Trust has disclaimed ownership in any such IR Assets and/or Incidental Rights to make clear that such assets are not and shall never be considered assets of the Trust and will not be taken into account for purposes of determining the Trust's NAV or NAV per Share. Neither the Trust, nor the Sponsor, nor the Bitcoin and Ether Custodian, nor any other person associated with the Trust will, directly or indirectly, engage in action where any portion of the Trust's ether becomes subject to the Ethereum proof-of-stake validation or is used to earn additional ether or generate income or other earnings.

Custody of the Trust's Bitcoin and Ether

The Trust's Bitcoin and Ether Custodian will maintain custody of all of the Trust's bitcoin and ether, other than that which is maintained in a trading account (the "Trading Balance") with Coinbase, Inc. (the "Prime Execution Agent," which is an affiliate of the Bitcoin and Ether Custodian). The Bitcoin and Ether Custodian will maintain an account that holds the Trust's bitcoin (the "Trust Bitcoin Account") and an account that holds the Trust's ether (the "Trust Ether Account," and together with the Trust Bitcoin Account, the "Trust Digital Asset Accounts"), and will facilitate the transfer of bitcoin and ether required for the operation of the Trust. The Trading Balance will only be used in the limited circumstances in which the Trust is using the Agent Execution Model (as defined below) to effectuate the purchases and sales of bitcoin or ether. The Bitcoin and Ether Custodian provides safekeeping of bitcoin and ether using a multi-layer cold storage security platform designed to provide offline security of the bitcoin and ether held by the Bitcoin and Ether Custodian.

Valuation of the Trust's Bitcoin and Ether

The net assets of the Trust and its Shares are valued on a daily basis with reference to the Pricing Benchmarks, which are standardized reference rates published by the Benchmark Provider designed to reflect the performance of bitcoin and ether in U.S. dollars. The Bitcoin Pricing Benchmark and Ether Pricing Benchmark were created to facilitate financial products based on bitcoin and ether, respectively. The Bitcoin Pricing Benchmark serves as a once-a-day benchmark rate of the U.S. dollar price of bitcoin (USD/BTC), and the Ether Pricing Benchmark serves as a once-a-day benchmark rate of the U.S. dollar price of ether (USD/ETH), each calculated as of 4:00 p.m. E.T. The Bitcoin Pricing Benchmark aggregates the trade flow of several major bitcoin trading venues, and the Ether Pricing Benchmark aggregates the trade flow

of several major ether trading venues, each during an observation window between 3:00 p.m. and 4:00 p.m. E.T. into the U.S. dollar price of one bitcoin or ether, as applicable, at 4:00 p.m. E.T.

The Bitcoin Pricing Benchmark uses the same methodology as the CME CF Bitcoin Reference Rate ("BRR"), which was designed by the CME Group and the Benchmark Provider to facilitate the cash settlement of bitcoin futures contracts traded on the Chicago Mercantile Exchange ("CME").[14] The CME Group also publishes the CME CF Bitcoin Real Time Index (the "CME Bitcoin Real Time Price"), which is a continuous measure of the U.S. dollar price of one bitcoin calculated once per second. Similarly, the Ether Pricing Benchmark uses the same methodology as the CME CF Ether-Dollar Reference Rate ("ERR"), which was designed by the CME Group and the Benchmark Provider to facilitate the cash settlement of ether futures contracts traded on the CME.[15] The CME Group also publishes the CME CF Ether Real Time Index (the "CME Ether Real Time Price"), which is a continuous measure of the U.S. dollar price of one ether calculated once per second. Each of the Pricing Benchmarks, BRR, ERR, CME Bitcoin Real Time Price, and CME Ether Real Time Price are representative of the bitcoin or ether trading activity, as applicable, on the Constituent Platforms,[16] which include, as of the date of this filing, Bitstamp, Coinbase, Gemini, itBit, LMAX, and Kraken.

The Trust uses the Pricing Benchmarks to calculate its NAV, as described below in "Net Asset Value."

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[14]   The only material difference between the Bitcoin Pricing Benchmark and the BRR is that the BRR measures the U.S. dollar price of one bitcoin as of 4:00 p.m. London time and the Bitcoin Pricing Benchmark measures the U.S. dollar price of one bitcoin as of 4:00 p.m. E.T.

[15]   The only material difference between the Ether Pricing Benchmark and ERR is that the ERR measures the U.S. dollar price of one ether as of 4:00 p.m. London time, and the Pricing Index measures the U.S. dollar price of one ether as of 4:00 p.m. E.T.

[16]   The "Constituent Platforms" are the bitcoin and ether trading venues included in the Pricing Benchmarks.

The Sponsor, in its sole discretion, may cause the Trust to price its portfolio based upon an index, benchmark, or standard other than the Pricing Benchmarks at any time, with prior notice to the shareholders, if investment conditions change or the Sponsor believes that another index, benchmark, or standard better aligns with the Trust's investment objective and strategy. The Sponsor may make this decision for a number of reasons, including, but not limited to, a determination that the Pricing Benchmarks price of bitcoin or ether differs materially from the global market price of bitcoin or ether and/or that third parties are able to purchase and sell bitcoin or ether on public or private markets not included among the Constituent Platforms, and such transactions may take place at prices materially higher or lower than the Pricing Benchmarks price. The Sponsor, however, is under no obligation whatsoever to make such changes in any circumstance. In the event that the Sponsor intends to establish the Trust's NAV by reference to an index, benchmark, or standard other than the Pricing Benchmarks, it will provide shareholders with notice in a prospectus supplement and/or through a current report on Form 8-K or in the Trust's annual or quarterly reports.[17]

Net Asset Value

The Trust's only assets will be bitcoin and ether and, under limited circumstances, cash. The Trust's NAV and NAV per Share will be determined by the Administrator once each Exchange trading day as of 4:00 p.m. E.T., or as soon thereafter as practicable. The Administrator will calculate the NAV by multiplying the number of bitcoin and ether held by the Trust by the Bitcoin Pricing Benchmark or Ether Pricing Benchmark, respectively, for such day, adding any additional receivables and subtracting the accrued but unpaid liabilities of the Trust.

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[17] The Sponsor will provide notice of any such changes in the Trust's periodic or current reports and, if the Sponsor makes such a change other than on an ad hoc or temporary basis, will file a proposed rule change with the Commission.

The NAV per Share is calculated by dividing the NAV by the number of Shares then outstanding. The Administrator will determine the price of the Trust's bitcoin and ether by reference to the Pricing Benchmarks, which are published and calculated as set forth above.

Intraday Trust Value

The Trust uses the CME Bitcoin Real Time Price and CME Ether Real Time Price to calculate an Indicative Trust Value ("ITV"). One or more major market data vendors will disseminate the ITV, updated every 15 seconds each trading day as calculated by the Exchange or a third-party financial data provider during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m., E.T.). The ITV will be calculated throughout the trading day by using the prior day's holdings at the close of business and the most recently reported price level of the CME Bitcoin Real Time Price and CME Ether Real Time Price. The ITV will be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session.

Creation and Redemption of Shares

The Trust creates and redeems Shares from time to time, but only in one or more Creation Units, which will initially consist of at least 10,000 Shares, but may be subject to change ("Creation Unit"). A Creation Unit is only made in exchange for delivery to the Trust or the distribution by the Trust of an amount of cash, equivalent to the value of ether represented by the Creation Unit being created or redeemed, the amount of which is representative of the combined NAV of the number of Shares included in the Creation Units being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem Creation Units is properly received. Except when aggregated in Creation Units or under extraordinary circumstances permitted under the Trust Agreement, the Shares are not redeemable securities.

Authorized Participants are the only persons that may place orders to create and redeem

Creation Units. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (2) Depository Trust Company ("DTC") participants. To become an Authorized Participant, a person must enter into an Authorized Participant Agreement with the Trust and/or the Trust's marketing agent (the "Marketing Agent").

According to the Registration Statement, when purchasing or selling ether in response to the purchase of Creation Units or the redemption of Creation Units, which will be processed in cash, the Trust would do so pursuant to either (1) a "Trust-Directed Trade Model," or (2) an "Agent Execution Model," which are each described in more detail below.

The Trust intends to utilize the Trust-Directed Trade Model for all purchases and sales of bitcoin and ether and would only utilize the Agent Execution Model in the event that no digital asset trading counterparty approved by the Sponsor (a "Digital Asset Trading Counterparty")[18] is able to effectuate the Trust's purchase or sale of bitcoin or ether. Under the Trust-Directed Trade Model, in connection with receipt of a purchase order or redemption order, the Sponsor, on behalf of the Trust, would be responsible for acquiring bitcoin and ether from an approved Digital Asset Trading Counterparty in an amount equal to the Basket Amount. When seeking to purchase bitcoin and ether on behalf of the Trust, the Sponsor will seek to purchase bitcoin and ether at commercially reasonable prices and terms from any of the approved Digital Asset Trading Counterparties.[19] Once agreed upon, the transaction will generally occur on an "over-

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[18]   The Digital Asset Trading Counterparties with which the Sponsor will engage in ether transactions are unaffiliated third parties that are not acting as agents of the Trust, the Sponsor or the Authorized Participant, and all transactions will be done on an arms-length basis. There is no contractual relationship between the Trust, the Sponsor or the Digital Asset Trading Counterparty.

[19]   The Sponsor will maintain ownership and control of bitcoin and ether in a manner consistent with good delivery requirements for spot commodity transactions.

the-counter" basis.

Whether utilizing the Trust-Directed Trade Model or the Agent Execution Model, the Authorized Participants will deliver only cash to create shares and will receive only cash when redeeming Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive bitcoin or ether as part of the creation or redemption process or otherwise direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving bitcoin or ether as part of the creation or redemption process. Additionally, under either the Trust-Directed Trade Model or the Agent Execution Model, the Trust will create Shares by receiving bitcoin and ether from a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust -- not the Authorized Participant -- is responsible for selecting the third party to deliver the bitcoin and ether. The third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the bitcoin and ether to the Trust or acting at the direction of the Authorized Participant with respect to the delivery of the bitcoin and ether to the Trust. Additionally, the Trust will redeem Shares by delivering bitcoin and ether to a third party that is not the Authorized Participant and is not affiliated with the Sponsor or the Trust, and the Trust -- not the Authorized Participant -- is responsible for selecting the third party to receive the bitcoin and ether. Finally, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the bitcoin or ether from the Trust or acting at the direction of the Authorized Participant with respect to the receipt of the bitcoin or ether from the Trust.

Acquiring and Selling Ether Pursuant to Creation and Redemption of Shares Under the Trust-Directed Trade Model

Under the Trust-Directed Trade Model and as set forth in the Registration Statement, on any business day, an Authorized Participant may create Shares by placing an order to purchase

one or more Creation Units with the Transfer Agent through the Marketing Agent. Such orders are subject to approval by the Marketing Agent and the Transfer Agent. For purposes of processing creation and redemption orders, a "business day" means any day other than a day when the Exchange is closed for regular trading ("Business Day"). To be processed on the date submitted, creation orders must be placed before 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, but may be required to be placed earlier at the discretion of the Sponsor. A purchase order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent ("Purchase Order Date").

Creation Units are processed in cash. By placing a purchase order, an Authorized Participant agrees to deposit, or cause to be deposited, an amount of cash equal to the quantity of bitcoin and ether attributable to each Share of the Trust (net of accrued but unpaid expenses and liabilities) multiplied by the number of Shares (10,000) comprising a Creation Unit (the "Basket Amount"). The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the Basket Amount relating to a Creation Unit applicable for such Business Day. That amount is derived by multiplying the Basket Amount by the value of bitcoin and ether ascribed by the Pricing Index. However, the Authorized Participant is also responsible for any additional cash required to account for the price at which the Trust agrees to purchase the requisite amount of bitcoin and ether from a Digital Asset Trading Counterparty to the extent it is greater than the Pricing Index price on each Purchase Order Date.

Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the creation order. Authorized Participants may not withdraw a creation request. If an Authorized Participant fails to

consummate the foregoing, the order may be cancelled.

Following the acceptance of a purchase order, the Authorized Participant must wire the cash amount described above to the Cash Custodian, and the Digital Asset Trading Counterparty must deposit the required amount of bitcoin and ether with the Bitcoin and Ether Custodian by the end of the day E.T. on the Business Day following the Purchase Order Date. The bitcoin and ether will be purchased from Digital Asset Trading Counterparties that are not acting as agents of the Trust or agents of the Authorized Participant. These transactions will be done on an arms-length basis, and there is no contractual relationship between the Trust, the Sponsor, or the Digital Asset Trading Counterparty to acquire such bitcoin and ether. Prior to any movement of cash from the Cash Custodian to the Digital Asset Trading Counterparty or movement of Shares from the Transfer Agent to the Authorized Participant's DTC account to settle the transaction, the bitcoin and ether must be deposited at the Bitcoin and Ether Custodian.

The Digital Asset Trading Counterparty must deposit the required amount of bitcoin and ether by end of day E.T. on the Business Day following the Purchase Order Date prior to any movement of cash from the Cash Custodian or Shares from the Transfer Agent. Upon receipt of the deposit amount of bitcoin and ether at the Bitcoin and Ether Custodian from the Digital Asset Trading Counterparty, the Bitcoin and Ether Custodian will notify the Sponsor that the bitcoin and ether have been received. The Sponsor will then notify the Transfer Agent that the bitcoin and ether have been received, and the Transfer Agent will direct DTC to credit the number of Shares ordered to the Authorized Participant's DTC account and will wire the cash previously sent by the Authorized Participant to the Digital Asset Trading Counterparty to complete settlement of the Purchase Order and the acquisition of the bitcoin and ether by the Trust, as described above.

As between the Trust and the Authorized Participant, the expense and risk of the difference between the value of bitcoin and ether calculated by the Administrator for daily valuation using the Pricing Benchmarks and the price at which the Trust acquires the bitcoin and ether will be borne solely by the Authorized Participant to the extent that the Trust pays more for bitcoin and ether than the price used by the Trust for daily valuation. Any such additional cash amount will be included in the amount of cash calculated by the Administrator on the Purchase Order Date, communicated to the Authorized Participant on the Purchase Order Date, and wired by the Authorized Participant to the Cash Custodian on the day following the Purchase Order Date. If the Digital Asset Trading Counterparty fails to deliver the bitcoin and ether to the Bitcoin and Ether Custodian, no cash is sent from the Cash Custodian to the Digital Asset Trading Counterparty, no Shares are transferred to the Authorized Participant's DTC account, the cash is returned to the Authorized Participant, and the Purchase Order is cancelled.

Under the Trust-Directed Trade Model and according to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Transfer Agent through the Marketing Agent to redeem one or more Creation Units. To be processed on the date submitted, redemption orders must be placed before 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier, or earlier as determined by the Sponsor. A redemption order will be effective on the date it is received by the Transfer Agent and approved by the Marketing Agent ("Redemption Order Date"). The redemption procedures allow Authorized Participants to redeem Creation Units and do not entitle an individual shareholder to redeem any Shares in an amount less than a Creation Unit, or to redeem Creation Units other than through an Authorized Participant. In connection

with receipt of a redemption order accepted by the Marketing Agent and Transfer Agent, the Sponsor, on behalf of the Trust, is responsible for selling the bitcoin and ether to an approved Digital Asset Trading Counterparty in an amount equal to the Basket Amount.

The redemption distribution from the Trust will consist of a transfer to the redeeming Authorized Participant, or its agent, of the amount of cash the Trust received in connection with a sale of the Basket Amount of bitcoin and ether to a Digital Asset Trading Counterparty made pursuant to the redemption order. The Sponsor will cause to be published each Business Day, prior to the commencement of trading on the Exchange, the redemption distribution amount relating to a Creation Unit applicable for such Business Day. The redemption distribution amount is derived by multiplying the Basket Amount by the value of bitcoin and ether ascribed by the Pricing Benchmarks. However, as between the Trust and the Authorized Participant, the expense and risk of the difference between the value of bitcoin and ether ascribed by the Pricing Benchmarks and the price at which the Trust sells the bitcoin and ether will be borne solely by the Authorized Participant to the extent that the Trust receives less for bitcoin and ether than the value ascribed by the Pricing Benchmarks. Prior to the delivery of Creation Units, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the redemption order.

The redemption distribution due from the Trust will be delivered by the Transfer Agent to the Authorized Participant once the Cash Custodian has received the cash from the Digital Asset Trading Counterparty. The Bitcoin and Ether Custodian will not send the Basket Amount of bitcoin and ether to the Digital Asset Trading Counterparty until the Cash Custodian has received the cash from the Digital Asset Trading Counterparty and is instructed by the Sponsor to make such transfer. Once the Digital Asset Trading Counterparty has sent the cash to the Cash

Custodian in an agreed upon amount to settle the agreed upon sale of the Basket Amount of bitcoin and ether, the Transfer Agent will notify the Sponsor. The Sponsor will then notify the Bitcoin and Ether Custodian to transfer the bitcoin and ether to the Digital Asset Trading Counterparty, and the Transfer Agent will wire the cash proceeds to the Authorized Participant once the Trust's DTC account has been credited with the Shares represented by the Creation Unit from the redeeming Authorized Participant. Once the Authorized Participant has delivered the Shares represented by the Creation Unit to be redeemed to the Trust's DTC account, the Cash Custodian will wire the requisite amount of cash to the Authorized Participant. If the Trust's DTC account has not been credited with all of the Shares of the Creation Unit to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms receipt of all such Shares. If the Digital Asset Trading Counterparty fails to deliver the cash to the Cash Custodian, the transaction will be cancelled, and no transfer of bitcoin or ether or Shares will occur.

Acquiring and Selling Ether Pursuant to Creation and Redemption of Shares Under the Agent Execution Model

Under the Agent Execution Model, the Prime Execution Agent, acting in an agency capacity, would conduct bitcoin and ether purchases and sales on behalf of the Trust with third parties through its Coinbase Prime service pursuant to the Prime Execution Agent Agreement. To utilize the Agent Execution Model, the Trust may maintain some bitcoin, ether, or cash in the Trading Balance with the Prime Execution Agent. The Prime Execution Agent Agreement provides that the Trust does not have an identifiable claim to any particular bitcoin or ether (and cash); rather, the Trust's Trading Balance represents an entitlement to a pro rata share of the bitcoin or ether (and cash) the Prime Execution Agent holds on behalf of customers who hold similar entitlements against the Prime Execution Agent. In this way, the Trust's Trading Balance

represents an omnibus claim on the Prime Execution Agent's bitcoin or ether (and cash) held on behalf of the Prime Execution Agent's customers.

To avoid having to pre-fund purchases or sales of bitcoin or ether in connection with cash creations and redemptions and sales of bitcoin or ether to pay Trust expenses not assumed by the Sponsor, to the extent applicable, the Trust may borrow bitcoin, ether, or cash as trade credit ("Trade Credit") from Coinbase Credit, Inc. (the "Trade Credit Lender") on a short-term basis pursuant to the Coinbase Credit Committed Trade Financing Agreement (the "Trade Financing Agreement").

On the day of the Purchase Order Date, the Trust would enter into a transaction to buy bitcoin and ether through the Prime Execution Agent for cash. Because the Trust's Trading Balance may not be funded with cash on the Purchase Order Date for the purchase of bitcoin and ether in connection with the Purchase Order under the Agent Execution Model, the Trust may borrow Trade Credits in the form of cash from the Trade Credit Lender pursuant to the Trade Financing Agreement or may require the Authorized Participant to deliver the required cash for the Purchase Order on the Purchase Order Date. The extension of Trade Credits on the Purchase Order Date allows the Trust to purchase bitcoin and ether through the Prime Execution Agent on the Purchase Order Date, with such bitcoin and ether being deposited in the Trust's Trading Balance.

On the day following the Purchase Order Date (the "Purchase Order Settlement Date"), the Trust would deliver Shares to the Authorized Participant in exchange for cash received from the Authorized Participant. Where applicable, the Trust would use the cash to repay the Trade Credits borrowed from the Trade Credit Lender. On the Purchase Order Settlement Date for a Purchase Order utilizing the Agent Execution Model, the bitcoin and ether associated with the

Purchase Order and purchased on the Purchase Order Date is swept from the Trust's Trading

Balance with the Prime Execution Agent to the Trust Digital Asset Account with the Bitcoin and

Ether Custodian pursuant to a regular end-of-day sweep process. Transfers of bitcoin and ether

into the Trust's Trading Balance are off-chain transactions and transfers from the Trust's Trading

Balance to the Trust Digital Asset Account are "on-chain" transactions represented on the bitcoin

and ether blockchains, as applicable. Any financing fee owed to the Trade Credit Lender is

deemed part of trade execution costs and embedded in the trade price for each transaction.

For a Redemption Order utilizing the Agent Execution Model, on the day of the

Redemption Order Date the Trust would enter into a transaction to sell bitcoin and ether through

the Prime Execution Agent for cash. The Trust's Trading Balance with the Prime Execution

Agent may not be funded with bitcoin and ether on trade date for the sale of bitcoin and ether in

connection with the redemption order under the Agent Execution Model, when bitcoin and ether

remains in the Trust Digital Asset Account with the Bitcoin and Ether Custodian at the point of

intended execution of a sale of bitcoin and ether. In those circumstances the Trust may borrow

Trade Credits in the form of bitcoin and ether from the Trade Credit Lender, which allows the

Trust to sell bitcoin and ether through the Prime Execution Agent on the Redemption Order

Date, and the cash proceeds are deposited in the Trust's Trading Balance with the Prime

Execution Agent. On the business day following the Redemption Order Date (the "Redemption

Order Settlement Date") for a redemption order utilizing the Agent Execution Model where

Trade Credits were utilized, the Trust delivers cash to the Authorized Participant in exchange for

Shares received from the Authorized Participant. In the event Trade Credits were used, the Trust

will use the bitcoin and ether that is moved from the Trust Digital Asset Account with the

Bitcoin and Ether Custodian to the Trading Balance with the Prime Execution Agent to repay the

Trade Credits borrowed from the Trade Credit Lender.

For a redemption of Creation Units utilizing the Agent Execution Model, the Sponsor would instruct the Bitcoin and Ether Custodian to prepare to transfer the bitcoin and ether associated with the redemption order from the Trust Digital Asset Account with the Bitcoin and Ether Custodian to the Trust's Trading Balance with the Prime Execution Agent. On the Redemption Order Settlement Date, the Trust would enter into a transaction to sell bitcoin and ether through the Prime Execution Agent for cash, and the Prime Execution Agent credits the Trust's Trading Balance with the cash. On the same day, the Authorized Participant would deliver the necessary Shares to the Trust and the Trust delivers cash to the Authorized Participant.

Background on Bitcoin

Bitcoin is the digital asset that is native to, and created and transmitted through the operations of, the peer-to-peer "Bitcoin network," a decentralized network of computers that operates on cryptographic protocols. No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by a decentralized user base. The Bitcoin network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as the "Bitcoin blockchain." Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on digital asset trading platforms or in individual end-user-to-end-user transactions under a barter system. Although nascent in use, bitcoin may be used as a medium of exchange, unit of account or store of value.

The Bitcoin network is decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of bitcoin. In

addition, no party may easily censor transactions on the Bitcoin network. As a result, the Bitcoin network is often referred to as decentralized and censorship resistant.

The value of bitcoin is determined by the supply of and demand for bitcoin. New bitcoin are created and rewarded to the parties providing the Bitcoin network's infrastructure ("miners") in exchange for their expending computational power to verifying transactions and add them to the Bitcoin blockchain. The Bitcoin blockchain is effectively a decentralized database that includes all blocks that have been solved by miners and it is updated to include new blocks as they are solved. Each bitcoin transaction is broadcast to the Bitcoin network and, when included in a block, recorded in the Bitcoin blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Bitcoin blockchain represents a complete, transparent and unbroken history of all transactions of the Bitcoin network.

The CME Bitcoin Futures Market

The CME Group announced the planned launch of bitcoin futures on October 31, 2017. Trading began on December 17, 2017.[20] Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate. The contracts trade and settle like other cash settled commodity futures contracts.

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[20]   See "CME Group Announces Launch of Bitcoin Futures," October 31, 2017, available at https://www.cmegroup.com/media-room/press-releases/2017/10/31/cme_group_announceslaunchofbitcoinfutures.html. At the same time as the launch of the CME Market, the Cboe Futures Exchange, LLC announced and subsequently launched Cboe bitcoin futures. See "CFE to Commence Trading in Cboe Bitcoin (USD) Futures Soon," December 01, 2017, available at cdn.cboe.com/resources/release_notes/2017/Cboe-Bitcoin-USD-Futures-Launch-Notification.pdf. Each future was cash settled, with the CME Market tracking the CME UK Reference Rate and the Cboe bitcoin futures tracking a bitcoin trading platform daily auction price. The Cboe Futures Exchange, LLC subsequently discontinued its bitcoin futures market effective June 2019. "Cboe put the brakes on bitcoin futures," March 15, 2019, available at https://www.reuters.com/article/us-cboe-bitcoin/cboe-puts-the-brakes-on-bitcoin-futures-idUSKCN1QW261. The Trust uses the CME US Reference Rate to calculate its NAV.

Nearly every measurable metric related to bitcoin futures has trended up since launch. For example, there were 348,635 bitcoin futures contracts traded in September 2024 (approximately $110.6 billion) compared to 192,620 ($26.0 billion) contracts, 279,859 contracts ($27.3 billion), 159,803 contracts ($34.8 billion), and 201,893 contracts ($10.8 billion) traded in September 2023, September 2022, September 2021, and September 2020, respectively.[21]

Open interest was 39,590 bitcoin futures contracts in September 2024 (approximately $12.6 billion) compared to 15,014 contracts ($2.0 billion), 14,867 contracts ($1.4 billion), 7,276 contracts ($1.6 billion), and 7,487 contracts ($0.4 billion) traded in September 2023, September 2022, September 2021, and September 2020, respectively.[22]

The number of large open interest holders[23] has increased as well, even in the face of heightened bitcoin price volatility, as demonstrated in the figure that follows.[24]

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[21] Data from CME Volume and Average Daily Volume Reports, available at https://www.cmegroup.com/market-data/volume-open-interest.html#volumeTotals.

[22] Data from CME Open Interest Reports, available at https://www.cmegroup.com/market-data/volume-open-interest.html#openInterestTools.

[23] A large open interest holder in bitcoin futures is an entity that holds at least 25 contracts, which is the equivalent of 125 bitcoin. At a price of approximately $64,300.87 per bitcoin on 9/24/2024, more than 115 firms had outstanding positions of greater than $8.04 million in bitcoin futures. Data from The Block, available at https://www.theblock.co/data/crypto-markets/cme-cots/large-open-interest-holders-of-cme-bitcoin-futures.

[24] Data from 4/10/2018 to 10/22/24, from The Block.

CME Bitcoin Futures Large Open Interest Holders (LOIH)

The Commodity Futures Trading Commission ("CFTC") regulates the CME bitcoin futures market, and both the Exchange and CME are members of the Intermarket Surveillance Group ("ISG").[25]

Background on Ethereum

Ethereum is free software that is hosted on computers distributed throughout the globe. Ethereum employs an array of computer code-based logic, called a protocol, to create a unified understanding of ownership, commercial activity, and economic logic. This allows users to engage in commerce without the need to trust any of its participants or counterparties. Ethereum code creates verifiable and unambiguous rules that assign clear, strong property rights to create a platform for unrestrained business formation and free exchange. No single intermediary or entity operates or controls the Ethereum network, the transaction validation and recordkeeping infrastructure of which is collectively maintained by a disparate user base. The Ethereum network allows people to exchange tokens of value, or ether, which are recorded on a distributed,

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[25]   For a list of the current members and affiliate members of ISG, see https://www.isgportal.com/.

public recordkeeping system or ledger known as a blockchain, and which can be used to pay for goods and services, including computational power on the Ethereum network, or converted to fiat currencies, such as the U.S. dollar, at rates determined on spot trading platforms or in individual peer-to-peer transactions. By combining the recordkeeping system of the Ethereum blockchain with a flexible scripting language that can be used to implement a wide variety of instructions, the Ethereum network is intended to act as a public computational layer on top of which users can build their own public software programs, as an alternative to centralized web services. On the Ethereum network, ether is the unit of account that users pay for the computational resources consumed by running programs of their choice.

CME Ether Futures Market

CME began offering trading in ether futures on February 8, 2021.[26] Each contract represents fifty ether and is based on the ERR. The contracts trade and settle like other cash settled commodity futures contracts.

Most measurable metrics related to CME ether futures have trended up since launch. For example, there were 95,261 CME ether futures contracts traded in September 2024 (approximately $12.4 billion) compared to 78,571 contracts ($6.6 billion), 163,114 contracts ($10.9 billion), and 130,546 contracts ($19.5 billion) traded in September 2023, September 2022, and September 2021, respectively. In the first month of trading, there were 11,637 billion contracts ($0.8 billion) traded.[27]

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[26]   See "CME Group Announces Launch of Ether Futures," February 8, 2021, available at https://www.cmegroup.com/media-room/press-releases/2021/2/08/cme_group_announceslaunchofetherfutures.html.

[27]   Data from CME Volume and Average Daily Volume Reports, available at https://www.cmegroup.com/market-data/volume-open-interest.html#volumeTotals.

Open interest was 6,746 CME ether futures contracts in September 2024 (approximately $875.1 million) compared to 4,577 contracts ($384.3 million), 5,035 contracts ($336.8 million), and 4,388 contracts ($656.8 million) in September 2023, September 2022, and September 2021, respectively.[28]

The number of large open interest holders[29] has increased as well, as demonstrated in the figure that follows.[30]
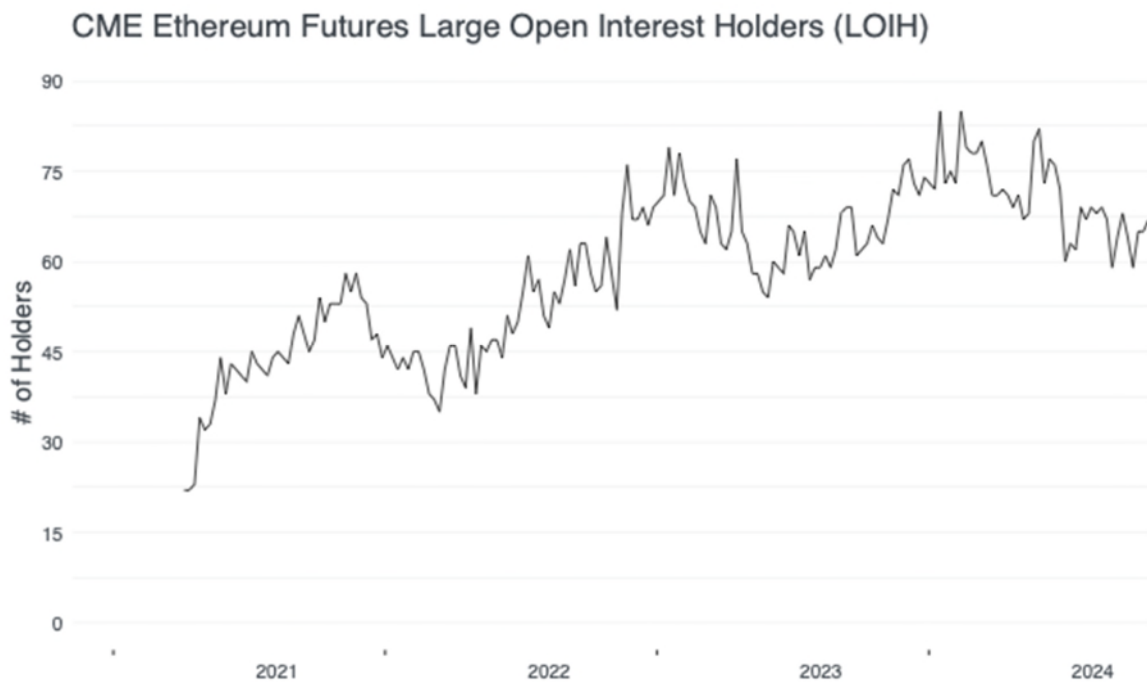
CME Ethereum Futures Large Open Interest Holders (LOIH)

The CFTC regulates the CME ether futures market, and both the Exchange and CME are members of the ISG.

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[28]   Data from CME Open Interest Reports, available at https://www.cmegroup.com/market-data/volume-openinterest.html#openInterestTools.

[29]   A large open interest holder in ether futures is an entity that holds at least 25 contracts, which is the equivalent of 1250 ether. Data from The Block, available at https://www.theblock.co/data/crypto-markets/cme-cots/large-open-interest-holders-of-cme-ether-futures.

[30]   Data from 4/10/2018 to 10/22/2024, from The Block.

Applicable Standard

The Commission has historically approved or disapproved exchange filings to list and

trade series of Trust Issued Receipts, including spot, Commodity-Based Trust Shares, on the

basis of whether the listing exchange has in place a comprehensive surveillance sharing

agreement with a regulated market of significant size related to the underlying commodity to be

held.[31] However, the Commission recently approved the listing and trading of shares of spot

bitcoin exchange-traded products ("Spot Bitcoin ETPs") and spot ether exchange-traded products

("Spot Ether ETPs"), finding that there were sufficient "other means" of preventing fraud and

manipulation sufficient to satisfy the requirements of Section 6(b)(5) of the Exchange Act.[32] In

each of the Spot Bitcoin ETP Approval Order and Spot Ether Approval Order, the Commission

concluded, through a robust correlation analysis, that fraud or manipulation that impacts prices in

spot bitcoin markets or spot ether markets would likely similarly impact CME bitcoin futures

prices and CME ether futures prices, respectively.[33] The Commission further found that, because

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[31]   See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (SR-
        BatsBZX-2016-30) (Order Setting Aside Action by Delegated Authority and Disapproving a Proposed
        Rule Change, as Modified by Amendments No. 1 and 2, to List and Trade Shares of the Winklevoss
        Bitcoin Trust) ("Winklevoss Order"). In the Winklevoss Order, the Commission set forth both the
        importance and definition of a surveilled, regulated market of significant size, explaining that, for approved
        commodity-trust ETPs, "there has been in every case at least one significant, regulated market for trading
        futures on the underlying commodity—whether gold, silver, platinum, palladium, or copper —and the ETP
        listing exchange has entered into surveillance-sharing agreements with, or held Intermarket Surveillance
        Group membership in common with, that market." Winklevoss Order, 83 FR at 37594.

[32]   See Securities Exchange Act Release No. 34-99306 (January 10, 2024), 89 FR 3008 (January 17, 2024)
        (SR-NYSEARCA-2021-90; SR-NYSEARCA-2023-44; SRNYSEARCA-2023-58; SR-NASDAQ-2023-
        016; SR-NASDAQ-2023-019; SR-CboeBZX-2023028; SR-CboeBZX-2023-038; SR-CboeBZX-2023-040;
        SR-CboeBZX-2023-042; SRCboeBZX-2023-044; SR-CboeBZX-2023-072) (Order Granting Accelerated
        Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Bitcoin-
        Based Commodity-Based Trust Shares and Trust Units) (the "Spot Bitcoin ETP Approval Order");
        Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-
        NYSEARCA-2023-70; SR-NYSEARCA-2024-31; SR- NASDAQ-2023-045; SR-CboeBZX-2023-069;
        SR-CboeBZX-2023-070; SR-CboeBZX-2023- 087; SR-CboeBZX-2023-095; SR-CboeBZX-2024-018)
        (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to
        List and Trade Shares of Ether-Based Exchange-Traded Products) (the "Spot Ether ETP Approval Order")..

[33]   See Spot Bitcoin ETP Approval Order, 89 FR at 3010; Spot Ether ETP Approval Order, 89 FR at 46938.

the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices and CME ether futures prices, a listing exchange's comprehensive surveillance sharing agreement ("CSSA") with the CME can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the context of the Spot Bitcoin ETPs and Spot Ether ETPs.[34]

The Trust is structured and will operate in a manner materially the same as the Spot Bitcoin ETPs and Spot Ether ETPs.[35] The Sponsor believes that the Exchange's ability to obtain information regarding trading in bitcoin futures and ether futures from the CME, which, like the Exchange, is a member of the ISG, would assist the Exchange in detecting potential fraud or manipulation with respect to trading in the Shares. The Sponsor thus believes that, for reasons similar to those set forth in the Spot Bitcoin ETP Approval Order and Spot Ether ETP Approval Order, listing and trading Shares of the Fund would be consistent with the requirements of the Act.

Availability of Information

The NAV per Share will be calculated and disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The ITV will be calculated every 15 seconds throughout the Core Trading Session each trading day.

The Sponsor will cause information about the Shares to be posted to the Trust's website (https://www.bitwiseinvestments.com/): (1) the NAV and NAV per Share for each Exchange trading day, posted at end of day; (2) the daily holdings of the Trust, before 9:30 a.m. E.T. on

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[34]   See Spot Bitcoin ETP Approval Order, 89 FR at 3010; Spot Ether ETP Approval Order, 89 FR at 46938-39.

[35]   The Sponsor is also the sponsor of the Bitwise Bitcoin ETF and the Bitwise Ethereum ETF, which were approved pursuant to the Spot Bitcoin ETP Approval Order and Spot Ether ETP Approval, respectively, and which are both currently listed and traded on NYSE Arca.

each Exchange trading day; (3) the Trust's effective prospectus, in a form available for download; and (4) the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. For example, the Trust's website will include (1) the prior Business Day's trading volume, the prior Business Day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation ("Bid/Ask Price") against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge.

Investors may obtain on a 24-hour basis ether pricing information based on the Pricing Benchmarks, BRR, ERR, CME Bitcoin Real Time Price, CME Ether Real Time Price, spot bitcoin market prices, bitcoin futures prices, spot ether market prices, and ether futures prices from various financial information service providers. Current bitcoin spot market prices and ether spot market prices are also available with bid/ask spreads from bitcoin and ether trading platforms, including the Constituent Platforms of the Pricing Benchmarks.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.

Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising

its discretion to halt or suspend trading in the Shares of the Trust.[36] Trading in Shares of the

Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been

reached. Trading also may be halted because of market conditions or for reasons that, in the

view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the

dissemination of the ITV, CME Bitcoin Real Time Price, CME Ether Real Time Price, or Pricing

Benchmarks (if the Exchange becomes aware that the Pricing Benchmarks are not being

published) occurs.[37] If the interruption to the dissemination of the ITV, CME Bitcoin Real Time

Price, CME Ether Real Time Price, or Pricing Benchmarks persists past the trading day in which

it occurred, the Exchange will halt trading no later than the beginning of the Core Trading

Session following the interruption. In addition, if the Exchange becomes aware that the NAV

with respect to the Shares is not disseminated to all market participants at the same time, it will

halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the

Shares subject to the Exchange's existing rules governing the trading of equity securities.

Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in

accordance with NYSE Arca Rule 7.34-E (Early, Core, and Late Trading Sessions). The

Exchange has appropriate rules to facilitate transactions in the Shares during all trading

sessions. As provided in NYSE Arca Rule 7.6-E, the minimum price variation ("MPV") for

quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01,

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[36]   See NYSE Arca Rule 7.12-E.

[37]   A limit up/limit down condition in the futures market would not be considered an interruption requiring the
         Trust to be halted.

with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201-E. The trading of the Shares will be subject to NYSE Arca Rule 8.201-E(g), which sets forth certain restrictions on Equity Trading Permit ("ETP") Holders acting as registered Market Makers in Commodity-Based Trust Shares to facilitate surveillance.[38] The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A-3 under the Act,[39] as provided by NYSE Arca Rule 5.3-E. A minimum of 100,000 Shares of the Trust will be outstanding at the commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares of the Trust will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[40] The Exchange represents

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[38]   Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its accounts for trading in the underlying commodity, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares). As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

[39]   17 CFR 240.10A-3. See note 8, supra.

[40]   FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from markets and other entities or with which the Exchange has in place a CSSA. The Exchange is also able to obtain information regarding trading in the Shares and any underlying bitcoin, bitcoin derivatives, ether, or ether derivatives in connection with ETP Holders' proprietary trades or customer trades effected through ETP Holders on any relevant market. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its accounts for trading in any underlying commodity, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to

prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares). As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts and that subsidiary or affiliate is a member of another regulatory organization, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations to the extent the Exchange has such an agreement with an organization of which the subsidiary or affiliate is a member.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the index, portfolio, or reference asset of the Trust, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The Sponsor has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an

"Information Bulletin" of the special characteristics and risks associated with trading the Shares.

Specifically, the Information Bulletin will discuss the following: (1) the procedures for creations

of Shares in Creation Units; (2) NYSE Arca Rule 9.2-E(a), which imposes a duty of due

diligence on its ETP Holders to learn the essential facts relating to every customer prior to

trading the Shares; (3) information regarding how the value of the ITV and NAV is

disseminated; (4) the possibility that trading spreads and the resulting premium or discount on

the Shares may widen during the Opening and Late Trading Sessions, when an updated ITV will

not be calculated or publicly disseminated; (5) the requirement that members deliver a

prospectus to investors purchasing newly issued Shares prior to or concurrently with the

confirmation of a transaction and (6) trading information.

In addition, the Information Bulletin will reference that the Trust is subject to various

fees and expenses as described in the annual report. The Information Bulletin will disclose that

information about the Shares of the Trust is publicly available on the Trust's website.

The Information Bulletin will also discuss any relief, if granted, by the Commission or

the staff from any rules under the Act.

        2.   Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section

6(b)(5)[41] that an exchange have rules that are designed to prevent fraudulent and manipulative

acts and practices, to promote just and equitable principles of trade, to remove impediments to,

and perfect the mechanism of a free and open market and, in general, to protect investors and the

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[41]   15 U.S.C. 78f(b)(5).

public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor Exchange trading in the Shares in all trading sessions and to deter and detect attempted manipulation of the Shares or other violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, bitcoin derivatives, and ether derivatives with other markets that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from such markets. In addition, the Exchange may obtain information regarding trading in the Shares, bitcoin derivatives, and ether derivatives from markets that are members of ISG or with which the Exchange has in place a CSSA. The Exchange is also able to obtain information regarding trading in the Shares and any underlying bitcoin, bitcoin derivatives, ether, or ether derivatives through ETP Holders, in connection with such ETP Holders' proprietary trades or customer trades effected through ETP Holders on any relevant market.

The proposed rule change is also designed to prevent fraudulent and manipulative acts and practices because the Trust is structured similarly to and will operate in materially the same manner as the Spot Bitcoin ETPs and Spot Ether ETPs previously approved by the Commission. The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because, as noted by the Commission in the Bitcoin ETP

Approval Order and Ether ETP Approval Order, the Exchange's ability to obtain information

regarding trading in the Shares and futures from other markets that are members of the ISG

(including the CME) would assist the Exchange in detecting and deterring misconduct. In

particular, the CME bitcoin futures market and CME ether futures market are large, surveilled,

and regulated markets that are closely connected with the spot markets for bitcoin and ether,

respectively, through which the Exchange could obtain information to assist in detecting and

deterring potential fraud or manipulation.

Quotation and last-sale information regarding the Shares will be disseminated through the

facilities of the CTA. The Trust's website will also include a form of the prospectus for the

Trust that may be downloaded. The website will include the Shares' ticker and CUSIP

information, along with additional quantitative information updated on a daily basis for the

Trust. The Trust's website will include (1) daily trading volume, the prior Business Day's

reported NAV and closing price, and a calculation of the premium and discount of the closing

price or mid-point of the Bid/Ask Price against the NAV; and (ii) data in chart format displaying

the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price

against the NAV, within appropriate ranges, for at least each of the four previous calendar

quarters. The Trust's website will be publicly available prior to the public offering of Shares and

accessible at no charge.

Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE

Arca Rule 7.12-E have been reached or because of market conditions or for reasons that, in the

view of the Exchange, make trading in the Shares inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market

and, in general, to protect investors and the public interest in that it will facilitate the listing and

trading of a new type of exchange-traded product based on the price of bitcoin and ether that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

B.   Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of a new type of Commodity-Based Trust Share based on the price of bitcoin and ether that would enhance competition among market participants, to the benefit of investors and the marketplace.

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. Please include file number

  SR-NYSEARCA-2024-104 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-NYSEARCA-2024-104. 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-NYSEARCA-2024-104 and should

be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN

THE *FEDERAL REGISTER*].

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

authority.[42]

Sherry R. Haywood,

Assistant Secretary.

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[42]   17 CFR 200.30-3(a)(12).