

Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2024 - * 59

Amendment No. (req. for Amendments *)

Filing by NYSE Arca, Inc.

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

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 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 options that overlie the value of the CoinDesk Bitcoin Price Index

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 * Kathleen Last Name * Murphy

Title * Senior Counsel, NYSE Group Inc.

E-mail * Kathleen.Murphy@ice.com

Telephone * (212) 656-4841 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 08/16/2024

(Title *)

By David De Gregorio

Associate General Counsel

(Name *)

David De Gregorio

Digitally signed by David De Gregorio
Date: 2024.08.16 16:21:31 -04'00'

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.

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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R19b4 Arca - XB Index Options (08

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.

Exhibit 1 - Notice of Proposed Rule Change *

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REx. 1 Re-file Arca - XB Index Optio

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)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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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)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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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.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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REx 3 Arca - XB Index Options (08 1

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.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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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.

Exhibit 5 - Proposed Rule Text

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REx 5 Arca - XB Index Options (08 1

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

Partial Amendment

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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.

1. Text of Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Exchange Act” or “Act”)¹ and Rule 19b-4 thereunder,² NYSE Arca Inc. (“NYSE Arca” or the “Exchange”) proposes to list and trade options that overlie the value of the CoinDesk Bitcoin Price Index, an index that measures the spot price of bitcoin. Options on the CoinDesk Bitcoin Price Index will be P.M., cash-settled contracts with European-style exercise provisions.
- (b) A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5.
- (c) 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.
- (d) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Kathleen E. Murphy
Senior Counsel
NYSE Group, Inc.
(212) 656-4841

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

(a) Purpose

The Exchange proposes to amend its rules for the listing and trading on the Exchange of options that overlie the value of the CoinDesk Bitcoin Price Index (the “XBX Index” or

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the “Index”), an index that measures the spot price of bitcoin.³ Options on the XBX Index will be P.M., cash-settled contracts with European-style exercise provisions (“XBX Index Options”).

To allow for the listing and trading of XBX Index Options, the Exchange proposes to amend Rule 5.14-O, “Dissemination of Information,” 5.15-O, “Position Limits for Broad-Based Index Options,” Rule 5.19-O, “Terms of Index Option Contracts,” Rule 5.20-O, “Trading Sessions,” Rule 5.22-O “Disclaimers,” and Rule 6.4-O. “Series of Options Open for Trading.”

Overview of the XBX Index

The XBX Index, which was launched in 2014, has the longest digital asset index track record and is calculated by CoinDesk Indices (“CDI”). The Index is a single-asset reference index that endeavors to provide an accurate and reliable USD-denominated composite reference rate for the spot (market) price of bitcoin in real-time (the “Index Price”). The Index tracks the spot price of bitcoin, in real time, across multiple crypto exchanges, and is calculated and published once per second, 24 hours per day, 365 days each year. The XBX Index currently serves as the benchmark for \$20 billion in ETF assets under management,⁴ including the Grayscale Bitcoin Trust (GBTC) (the “GBTC ETP”), which is listed on the Exchange.⁵

The Index is designed to (i) mitigate the effects of fraud, manipulation, and other anomalous trading activity from impacting the Index Price, (ii) provide a real time, volume-weighted fair value of bitcoin, and (iii) appropriately handle and adjust for non-market related events.

The proposed XBX Index Options would be based on the representative spot price of bitcoin as calculated by CoinDesk and would act as a hedging tool that enables investors to manage, more easily, their positions and associated risks, in their portfolios in connection with exposure to spot bitcoin.

³ When capitalized, references to “Bitcoin” are to the Bitcoin network or the Bitcoin protocol, described below. When lowercase, references to “bitcoin” are to the digital asset native to the Bitcoin network measured by the Index.

⁴ See XBX Fact Sheet, available at <https://downloads.coindesk.com/cd3/CDI/XBX+Brochure.pdf>.

⁵ See id. The Exchange notes that the GBTC is a bitcoin-backed commodity ETF that tracks the prices of, and holds physical, bitcoin. GBTC is an ETF (or Exchange-Traded Fund Share). Although the GBTC overlies bitcoin, which is arguably a non-security commodity, ETFs are recognized securities that regularly trade on the Exchange. As discussed infra, the proposed XBX Index Options, like GBTC, would overlie bitcoin, and index options are recognized securities that regularly trade on the Exchange.

Background on Bitcoin, the Bitcoin Network and Bitcoin Supply⁶

As described herein, the XBX Index derives a representative spot (market) price of bitcoin from multiple crypto exchanges using a proprietary algorithm. Bitcoin is a digital asset created and transmitted through the operations of the peer-to-peer “Bitcoin Network,” a decentralized network of computers that operates on cryptographic protocols and is collectively maintained by a user base.⁷ The Bitcoin Network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as a Blockchain. Bitcoin can be used to pay for goods and services, or it can be converted into fiat currencies such as the U.S. dollar, at rates determined on “Digital Asset Markets”⁸ that trade bitcoin or in individual end-user-to-end-user transactions under a barter system.

The Bitcoin Network is decentralized in that it does not require governmental authorities or financial institution intermediaries to create, transmit, or determine the value of bitcoin. Rather, bitcoin is created and allocated by the Bitcoin Network protocol through a “mining” process that involves the encoding and decoding of data.⁹ New bitcoin are created and rewarded to the miners of a block in the Blockchain for verifying transactions. The Blockchain includes all blocks that have been mined by miners and it is updated to include new “blocks” of data as they are solved. To prevent the possibility of double-spending bitcoin, each bitcoin transaction is publicly broadcast to the Bitcoin Network and, when included in a block, recorded in the Blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and

⁶ For a more detailed discussion of bitcoin, see the Exchange’s most-recent SEC filings in support of the GBTC Bitcoin ETP. See Securities Exchange Act Release No. 99298 (January 9, 2024), 89 FR 2661, 2664-65 (January 16, 2024) (SR-NYSEArca-2021-90) (Notice of Filing of Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the Grayscale Bitcoin Trust (BTC) under Rule 8.201-E (Commodity-Based Trust Shares)) (the “GBTC Bitcoin ETP Notice”).

⁷ A person wanting to own, transfer, or use bitcoin directly on the Bitcoin Network (as opposed to through an intermediary, such as a custodian) generally must have internet access and must install on its computer or mobile device a Bitcoin Network software program that enables the user to generate a private and public key pair associated with a Bitcoin address, commonly referred to as a “wallet.” The Bitcoin Network software program and the bitcoin address also enable the user to connect to the Bitcoin Network and transfer bitcoin to, and receive bitcoin from, other users.

⁸ A “Digital Asset Market” is a “Brokered Market,” “Dealer Market,” “Principal-to-Principal Market,” or “Exchange Market,” as each such term is defined in the Financial Accounting Standards Board Accounting Standards Codification Master Glossary.

The “Digital Asset Trading Platform Market” is the global trading platform market for the trading of bitcoins, which consists of transactions on electronic Digital Asset Trading Platforms.

A “Digital Asset Trading Platform” is an electronic marketplace where participants may trade, buy and sell bitcoins based on bid-ask trading. The largest Digital Asset Trading Platforms are online and typically trade on a 24-hour basis, publishing transaction price and volume data.

⁹ Bitcoin mining is a network-wide competition to generate a cryptographic solution (by encoding and decoding data) that matches specific criteria. When a correct solution is reached, a reward in the form of bitcoin and fees for the work done is given to the miner(s) who reached the solution first. What Is Bitcoin Mining?, INVESTOPEDIA, <https://www.investopedia.com/terms/b/bitcoin-mining.asp>.

validated through such recording, the Blockchain represents a complete, transparent, and unbroken history of all transactions of the Bitcoin Network.

The value of bitcoin is determined by the supply of and demand for bitcoin. The supply of new bitcoin is mathematically controlled so that the number of bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Blockchain. On April 19, 2024, the fixed reward for solving a new block was decreased by half—from 6.25 bitcoin per block to 3.125 bitcoin per block—as a result of the most recent 210,000 blocks entering the Bitcoin Network. This deliberately controlled rate of bitcoin creation means that the number of bitcoin in existence will increase at a controlled rate until the number of bitcoin in existence reaches the pre-determined maximum 21 million bitcoin. As of July 10, 2024, approximately 19.72 million bitcoins were outstanding and the date when the 21 million bitcoin limitation will be reached is estimated to be the year 2140.

XBX Index Design, Methodology and Dissemination

The XBX Index derives a reference rate spot price of bitcoin in real-time by aggregating prices from crypto exchanges on which bitcoin is traded. The Exchange notes that the design of the Index would protect investors in the proposed XBX Index Options from fraudulent or manipulative practices. Specifically, as detailed below, the Index utilizes an algorithm that is designed to (i) mitigate the effects of fraud, manipulation, and other anomalous trading activity from impacting the Index Price, (ii) provide a real time, volume-weighted fair value of bitcoin, and (iii) appropriately handle and adjust for non-market related events. As noted herein, the Index serves as the benchmark for \$20 billion in ETF assets under management, including the GBTC Bitcoin ETP—an SEC-approved product.

The Index Price for XBX is determined by CoinDesk through a process in which trade data from multiple eligible spot crypto exchanges (“constituent exchanges”) is cleansed and compiled in such a manner as to algorithmically reduce the impact of anomalous or manipulative trading. To accomplish this, CoinDesk applies a proprietary algorithm—the Constituent Weighting Adjustment Algorithm (“CWAA”)—that adjusts the weight of each data input based on price deviation relative to the observable set, as well as recent and long-term trading volume at each venue relative to the observable set.¹⁰ As of April 1, 2024, the constituent exchanges were Bitstamp, Coinbase, Crypto.com, Kraken, and LMAX Digital.¹¹

¹⁰ For more information about the CWAA, see CoinDesk Single Digital Asset Price Indices Methodology, as of April 2024 (“XBX Index Methodology”), available at <https://downloads.coindesk.com/cd3/CDI/CoinDesk+Single+Digital+Asset+Price+Indices+Methodology.pdf>. Constituent exchanges are weighted proportional to their trailing 24-hour liquidity with adjustments for price variance and inactivity. See *id.*

¹¹ The constituent exchanges used to calculate the XBX Index must meet certain eligibility requirements and be reviewed by CDI on a quarterly basis. Any changes resulting from the quarterly review are announced two weeks in advance of the effective date and are phased in over a 24-hour implementation period. See *id.*

The CWAA methodology is designed to prevent manipulation of the spot price of bitcoin such that it impacts the Index Price. First, price manipulation would require a significant investment to accomplish, because to move prices would require investing capital into each constituent exchange such that the resulting trading volume would impact the spot price. Further, the CWAA is designed to down-weight outlier prices that make up the Index Price. As such, the hefty capital requirements taken together with the CWAA checks against outlier price(s), would likely deter efforts to manipulate the price of the XBX Index.

As depicted in the calculation below, for each one-second calculation, CWAA uses the most recently available trade data using a dynamic lookback period to compute a price and weight for each contributing exchange and uses these as inputs to calculate a weighted average price. The weighted-average spot price is calculated and published approximately once every second.¹²

The formula for deriving spot bitcoin prices for the Index is as follows:

Calculation Formula

$$\text{Index Value}_t = \sum_{i=1}^N P_{i,t} * W_{i,t}$$

Where:

Index Value_t = Index Value at time t
P_{i,t} = Price of trading pair (as calculated by the CWAA) on exchange i at time t
W_{i,t} = Weight of constituent exchange i at time t as determined by the CWAA
N = number of constituent exchanges

In the event the Index ceases to be maintained or calculated, or its values are not disseminated at least every second, the Exchange will not list any additional series for trading, and may, for the purpose of maintaining a fair and orderly market and protecting investors, limit transactions in certain options on the Index to closing transactions only.

The Exchange would ensure that the “current index value” of the XBX Index, as calculated by CDI, “is disseminated after the close of business and from time-to-time on days on which transactions in index options are made on the Exchange.”¹³ Consistent

¹² Real-time Index values are calculated 24x7 and are available publicly at <https://coindesk.com/indices>.

¹³ See Rule 5.14-O(a).

with its obligations, the Exchange would maintain publicly-available files regarding the calculation of the index and the method used to determine the current Index value.¹⁴

XBX Index Contract Specifications

As set forth in Exhibit 3-1, the following are the characteristics of the Index: (i) the initial Index value was 327.00 on November 4, 2014; (ii) the closing value of the Index value on was 56,494.00 on July 8, 2024; (iii) the lowest Index value since inception was 181.00 and occurred on January 14, 2015; and (iv) the highest Index value since inception was 73,462.59 and occurred on March 13, 2024.

The contract specifications for options on the Index are set forth in Exhibit 3-2. The Index is a broad-based index, as defined in Rule 5.10-O(b)(23), for the purpose of determining which of the Exchange's rules apply to options on the Index. Each XBX Index Option will be P.M.- and cash-settled with European-style exercise provisions, with trading in expiring options ending at 4:00 p.m. New York time on their Expiration Date.¹⁵ The Exchange believes that P.M. settlement is appropriate for XBX Index Options due to the nature of these indexes that encompass multiple markets around the world. Standard trading hours for index options (9:30 a.m. to 4:00 p.m., New York time) would apply to the Index.¹⁶

The Exchange proposes to apply margin requirements for the purchase and sale of options on the Index that are identical to those applied for other broad-based index options traded on the Exchange.¹⁷ The trading of XBX Index Options will be subject to the trading halt procedures applicable to index options traded on the Exchange.¹⁸

¹⁴ See Rule 5.14-O(b). The Exchange proposes to modify this Rule to replace the reference to "stocks" underlying an index with "components" to reflect that the components of an index is no longer restricted solely to stocks. See proposed Rule 5.14-O(b). The proposed change would align this Exchange rule with at least one other options exchange. See MIAX Rule 1803(b) (providing that MIAX will "maintain, in files available to the public, information identifying the *components* whose prices are the basis for calculation of the index and the method used to determine the current index value" (emphasis added)).

¹⁵ See proposed Rules 5.19-O(a)(4)(A) (providing that XBX Index Options will be European-style P.M.-settled index options approved for trading on the Exchange) and (a)(8) (adding a provision describing the characteristic of "P.M.-Settled Index Options" for which "[t]he last day of trading will be the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day before its expiration date"). The Exchange notes that the rules of at least one other options exchange provide a nearly identical description of European-style, P.M.-settled options. See Nasdaq PHLX LLC ("Nasdaq Phlx"), Options 4A, Section 12 (Terms of Index Contracts) (a)(9) (providing that index options with European-style exercise may be P.M. settled) and (f) (describing characteristic of P.M.-settled options and listing the P.M.-settled index options approved for trading on Phlx).

¹⁶ See Rule 5.20-O(a) (Trading Sessions).

¹⁷ See Rule 5.25-O (Margins).

¹⁸ See Rule 5.20-O(c).

XBX Index Options will be quoted and traded in U.S. dollars.¹⁹ The contract multiplier for XBX Index Options would be \$1. Further, XBX Index Options would be quoted in index points and one point would equal \$1. Initially, the Exchange would list in-, at-, and out-of-the-money strike prices. Additional series may be opened for trading as the underlying Index level moves up or down.²⁰ The minimum strike price interval for XBX Index Options series would be \$0.50 or greater if the strike price is less than \$15.00; \$1.00 or greater if the strike price is between \$15.00 and \$200; and \$5.00 or greater if the strike price is greater than \$200.²¹ The Exchange believes that \$0.50 and \$1 strike price intervals will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives. New series of index option contracts may be added up to, but not on or after, the fourth business day prior to expiration for an option contract expiring on a business day, or, in the case of an option contract expiring on a day that is not a business day, the fifth business day prior to expiration.²²

The Exchange would also be permitted to list up to ten expirations in Long-Term Index Option Series (“LEAPS”) on the Index and the XBX Index would be eligible for all other expirations permitted for other broad-based indexes, e.g., Short Term Option Series and Quarterly Option Series.²³

Exercise and Settlement Value

The exercise and settlement value will be the official closing value of the XBX Index as reported by CDI on the last trading day of the expiring contract.²⁴ Expiring XBX Index Options series ends at 4:00 P.M on their Expiration Date. When the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

¹⁹ See Rule 5.19-O(a)(1).

²⁰ See Rule 5.19-O(c)(4). The rule sets forth the criteria for listing additional series of the same class as the current value of the underlying index moves. Generally, additional series must be “reasonably related” to the current index value, which means that strike prices must be within 30% of the current index value. Series exceeding the 30% range may be listed based on demonstrated customer interest.

²¹ See proposed Commentary .15 to Rule 6.4-O. The Exchange notes that these values would be identical to the minimum strike price intervals for index options available on another exchange. See Cboe Exchange, Inc., Cboe VIX Options Product Specifications, available at https://www.cboe.com/tradable_products/vix/vix_options/specifications/.

²² See Rule 5.19-O(c)(2).

²³ See e.g., Rules 5.19-O(b) (Index LEAPS Options Series), 6.4-O, Commentary .07 (Short Term Option Series) and 6.1-O, Commentary .08 (Quarterly Option Series).

²⁴ See proposed amendment to Rule 5.22-O, Commentary .01, to identify CoinDesk Indices, Inc., as the Reporting Authority for the XBX. As the designated Reporting Authority for each of these indexes, the disclaimers set forth in Rule 5.22-O (Disclaimers) would apply to CoinDesk, Inc.

The exercise settlement amount would be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier (\$1). The XBX Index Options would expire on the third Friday of the expiring month. Exercise would result in delivery of cash on the business day following expiration. XBX Index Options would be P.M.-settled. If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of The Options Clearing Corporation (“OCC”).²⁵

In regards to potential liability relating to any errors, omissions, or delays in calculating or disseminating the current settlement value or closing settlement value of the XBX Index, the Exchange proposes to modify Rule 5.22-O (Disclaimers) to specify the conditions under which such liability is limited.²⁶ This proposed limitation of liability for the calculation and dissemination of the settlement value(s) of options contracts overlying foreign currencies mirrors another Exchange rule, as well as one other options exchange, and is therefore not new or novel.²⁷

Position and Exercise Limits

The Exchange proposes to amend Rule 5.15-O(a) to establish position limits for XBX Index Options equal to 250,000 contracts on the same side of the market, restricted to no more than 150,000 near-term contracts, which is consistent with position limits for broad-based index options. Additionally, pursuant to Rule 5.14-O, the exercise limits for XBX Index Options would be equivalent to the position limits for XBX Index Options. All position limit hedge exemptions applicable to broad-based index options would also apply.

²⁵ As noted herein, options on the XBX Index would not be available for trading until OCC represents to the Exchange that it is fully able to clear and settle such options. As such, this statement about exercise and settlement value in relation to the OCC assumes that the OCC concludes that it may clear XBX Index Options.

²⁶ See proposed Rule 5.22-O(b) (“Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including, but not limited to, and act of God; fire; flood; extraordinary weather conditions; terrorism; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying components or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange or the Reporting Authority.”). Consistent with this change, the Exchange proposes to re-number current paragraph (b) to new paragraph (c). See proposed Rule 5.22-O(c).

²⁷ See Rule 5.81-O(b) (providing that, for options on foreign currencies, neither the Exchange nor the Reporting Authority have liability stemming from the calculation and dissemination of the “current settlement value or the closing settlement value”). See also Nasdaq PHLX Rule 4(c), Section 6 (providing that, for the closing settlement value of “U.S. Dollar-Settled Foreign Currency Options,” neither Nasdaq Phlx nor the “Reporting Authority” have liability stemming from the calculation and dissemination of such value).

Margin

The Exchange proposes to apply margin requirements for the purchase and sale of XBX Index Options that are identical to those applied for its other broad-based index options. Specifically, the Exchange proposes, pursuant to Rule 5.25-O(b)(1), the margin requirement for a short put or call shall be 100% of the current market value of the contract plus 15% of the index value times the index multiplier, reduced by any out-of-the-money amount. There would be a minimum margin requirement of 100% of the current market value of the contract plus 10% of the index value times the index multiplier.

Sales Practice Rules

The trading of XBX Index Options would be subject to the same sales practice rules that presently govern the trading of Exchange index options.

Rule 9.18-O(b), "Opening of Accounts," is designed to protect public customer trading and will apply to trading in XBX Index Options. Specifically, Rule 9.18-O(b) prohibits an OTP Firm or OTP Holder from accepting a customer order to purchase or write an option, including XBX Index Options, unless such customer's account has been approved in writing by a Registered Options Principal. Additionally, Rule 9.18-O(c), "Suitability," is designed to ensure that options, including XBX Index Options, are only sold to customers capable of evaluating and bearing the risks associated with trading in these securities. Further, Rule 9.18-O(e), "Discretionary Accounts," permits an OTP Firm or OTP Holder to exercise discretionary power with respect to trading options, including XBX Index Options, in a customer's account only if the customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. Rule 9.18-O(e) also requires a record to be made of every option transaction for an account in respect to which an OTP Firm or OTP Holder is vested with discretionary authority, such record to include the name of the customer, the designation, number of contracts and premium of the option contracts, the date and time when such transaction took place, and clearly reflecting the fact that discretionary authority was exercised. Finally, Rule 9.18-O(d), "Supervision of Accounts," Rule 9.18-O(f), "Confirmations," and Rule 9.18-O(g), "Delivery of Current Options Disclosure Document and Prospectus," will also apply to trading of XBX Index Options.

Surveillance and Capacity

As noted above, the Exchange believes that the XBX Index, and the methodology that will be used for determining the settlement price on options on the XBX Index, make it reasonably unlikely that a market participant could manipulate the settlement price of the options by trading on the exchanges that contribute to XBX.

Additionally, the Exchange represents that trading XBX Index Options 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. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of XBX Index Options 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 include surveillances that 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 XBX Index Options with other markets and other entities that are members of the Intermarket Surveillance Group, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the XBX Index Options from such markets and other entities. In addition, the Exchange may obtain information regarding trading XBX Index Options from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement.

Finally, the Exchange represents that it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading of options on the Index.

Legal Analysis

The Exchange believes that, for purposes of this proposal, bitcoin qualifies as a “foreign currency” and, therefore, the proposed XBX Index Options would qualify as a “security” as an “option . . . entered into on a national securities exchange relating to foreign currency.”²⁸

As a threshold matter, Congress with the Securities Acts Amendments of 1982 amended the definition of “security” under the Securities Act of 1933 (“Securities Act”) and the Exchange Act to include “any put, call, straddle, option, or privilege on any security, certificate of deposit, or group of index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency.”²⁹ The Exchange believes that, with these amendments, Congress expressly overrode the Seventh Circuit’s determination in *Bd. of Trade of City of Chicago v. SEC* that Section 2(a)(1) of the Commodity Exchange Act vests in the Commodity Futures Trading Commission

²⁸ See 15 U.S.C. § 77b(a)(1) (Section 2(a)(1) of the Securities Act) and 15 U.S.C. § 78c(a)(10) (Section 3(a)(10) of the Exchange Act).

²⁹ Id.

(“CFTC”) exclusive jurisdiction over options instruments that are the subject of futures trading, including foreign currency.³⁰

Pursuant to this statutory authority, the SEC since 1982 has approved for listing and trading on national securities exchanges various options on foreign currencies.³¹ However, neither the Securities Act nor the Exchange Act further defines the term “foreign currency” as that term is used in the definition of “security.” In the absence of a statutory definition or relevant legislative history, it is therefore instructive to look to the definition of “foreign currency” adopted by national securities exchanges that the SEC has approved the trading of foreign currency options on.

Importantly, the Exchange defines “foreign currency” in its rules as “the standard unit of the official medium of exchange of a sovereign government including the United States Government or the official medium of exchange of the European Economic Community’s European Monetary System.”³² The Exchange believes that bitcoin unambiguously meets the Exchange’s definition of “foreign currency” as defined in its rules because bitcoin is the standard unit of the official medium of exchange of at least one sovereign government. Specifically, El Salvador in September 2021 adopted bitcoin as unrestricted legal tender in the country, formally requiring bitcoin to be accepted as a means of payment.³³ As of the date of this application, bitcoin remains legal tender in El Salvador.

³⁰ See Bd. of Trade of City of Chicago v. SEC, 677 F.2d 1137 (7th Cir.), cert. granted, judgment vacated sub nom. Chicago Bd. Options Exch., Inc. v. Bd. of Trade of City of Chicago, 459 U.S. 1026 (1982), and cert. granted, judgment vacated sub nom. SEC v. Bd. of Trade of City of Chicago, 459 U.S. 1026 (1982).

³¹ See e.g., Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change, 47 Fed. Reg. 49,946 (Oct. 21, 1982). Foreign currencies are commodities. See What Are Commodities and Understanding Their Role in the Stock Market, INVESTOPEDIA, <https://www.investopedia.com/terms/c/commodity.asp>.

³² See Rule 5.71-O, available at <https://nysearca.wolterskluwer.cloud/rules/b6147f6e7cd410008c17d8d385ad1694038?searchId=2326179527>. Similarly, another national securities exchange, Nasdaq PHLX, defines “foreign currency” in its rules as “the standard unit of the official medium of exchange of a sovereign government, including the United States Government (e.g., the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, the Swedish krona, or the United States dollar) or the Euro.” See Nasdaq PHLX Options Rule 1(b)(23), available at <https://listingcenter.nasdaq.com/rulebook/PHLX/rules/Phlx%20Options%201/>. Note that when the then-Philadelphia Stock Exchange, Inc., originally proposed to list foreign currency options in 1981, it specifically also proposed to amend its rules to “address the possibility, however remote, that the issuer of an existing underlying foreign currency may introduce a new currency intended to replace its existing currency as its standard unit of exchange.” See Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Proposal to Establish an Exchange Market in Standardized Options on Foreign Currencies, 46 Fed. Reg. 20,348, 20,352 (Apr. 3, 1981). The SEC approved the proposed rule changes. See 47 Fed. Reg. 49,946 (Oct. 21, 1982).

³³ Oscar Lopez and Ephrat Livni, El Salvador Becomes First Country to Adopt Bitcoin as Nation Currency, N. Y. TIMES (Sept. 7, 2021), available at https://www.nytimes.com/2021/09/07/world/americas/el-salvador-bitcoin.html?unlocked_article_code=1.xE0.lQ1z.tiwOWwD4KdpE&smid=nytcore-ios-share&referringSource=articleShare&u2g=i.

Alternatively, the Exchange believes that the well-established interpretive principle that statutes should be given their plain meaning in the absence of any contrary guidance from Congress supports the Exchange's interpretation of "foreign currency."³⁴ The ordinary meaning of "foreign currency" encompasses "currency that is approved by another country's government, though it may circulate as a medium of exchange elsewhere."³⁵ As bitcoin has been approved as legal tender by the Salvadorian government, it easily meets the ordinary meaning of the term "foreign currency." Thus, the Exchange believes that, solely for the purpose of the current proposal, XBX Index Options would qualify as options on a foreign currency that fall within the SEC's authority over securities.³⁶

The Exchange recognizes that, prior to bitcoin being adopted as legal tender in El Salvador in 2021, the SEC had distinguished bitcoin -- a virtual currency -- from traditional fiat currency on the basis that bitcoin "does not have legal tender status (i.e., when tendered to a creditor, is a valid and legal offer of payment) in any jurisdiction."³⁷ The Exchange does not believe that this pre-2021 position precludes the SEC from determining that bitcoin now qualifies as a foreign currency. In fact, in the wake of El Salvador's designation of bitcoin as legal tender, at least one federal regulatory agency acknowledged that "[i]n certain contexts, virtual currency may serve one or more of the functions of 'real' currency -- i.e., the coin and paper money of the United States or of any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance."³⁸ Moreover, two U.S. presidential candidates for the 2024 election have accepted campaign donations in

³⁴ See e.g., Burns v. Alcalá, 420 U.S. 575, 580 (1975) (finding that "words used in a statute are to be given their ordinary meaning in the absence of persuasive reasons to the contrary").

³⁵ Foreign Currency, BLACK'S LAW DICTIONARY (11th ed. 2019).

³⁶ The Exchange is neither challenging the CFTC's classification of bitcoin as a commodity nor requesting that the Commission encroach on the CFTC's jurisdiction. Instead, the proposal seeks a context-specific determination whereby bitcoin is viewed as a foreign currency such that options on bitcoin -- i.e., the proposed XBX Index Options -- qualify as a security. In fact, the Commission has observed that "the analysis of whether something is a security is not static and does not strictly inhere to the instrument" and that "[e]ven digital assets with utility that function solely as a means of exchange in a decentralized network could be packaged and sold as an investment strategy that can be a security." See Speech by William Hinman, SEC, Director, Division of Corporate Finance, on June 14, 2018, Digital Asset Transactions: When Howey Met Gary (Plastic), available here: https://www.sec.gov/news/speech/speech-hinman-061418#_ftnref4. The Exchange believes that the opposite is also true: that whether bitcoin is a commodity is not static and depends on how it is packaged and sold. Here, the proposed XBX Index Options are options overlying bitcoin (and the spot price thereof) as a foreign currency and, strictly for purposes of this proposal, should be deemed to be a security.

³⁷ See In re Bitcoin Inv. Tr., Release No. 34-78282, 2016 WL 4363462, at *1 n.1 (July 11, 2016); In re Btc Trading, Corp., Release No. 34-9685, at 2014 WL 6872955, at *1 n.1 (Dec. 8, 2014); In re Voorhees, Release No. 34-9592, 2014 WL 2465620, at *1 n.1 (June 3, 2014). The CFTC made this same distinction prior to El Salvador's adoption of bitcoin as legal tender. See In the Matter of Coinflip, Inc., 2015 WL 5535736, at *5 n. 2 (2015) ("Bitcoin and other virtual currencies are distinct from 'real' currencies, which are the coin and paper money of the United States or another country that are designated as legal tender, circulate, and are customarily used and accepted as a medium of exchange in the country of issuance").

³⁸ See Internal Revenue Service, Notice 2023-34, available at <https://www.irs.gov/pub/irs-drop/n-23-34.pdf> (guidance clarifying that convertible virtual currency (including bitcoin) is treated as property (as opposed to currency) for U.S. federal tax purposes).

bitcoin, with one recently announcing that its campaign has raised \$25 million in bitcoin and other virtual currencies.³⁹

For the reasons set forth above, the Exchange accordingly believes that the SEC should exercise its authority to regulate the proposed XBX Index Options on the basis that, for the purpose of the listing and trading of such options, bitcoin (and spot prices derived therefrom) should be treated as securities.

The Exchange notes that additional approvals may be necessary to trade XBX Index Options. In particular, options on the XBX Index would not be available for trading until OCC represents to the Exchange that it is fully able to clear and settle such options. The Exchange has also analyzed its systems and represents that it and The Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing of XBX Index Options. Because the proposal is limited to one new class, the Exchange believes that the additional traffic that would be generated from the introduction of XBX Index Options would be manageable and well within any systems capacity capabilities. The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on the capacity of the Exchange’s automated systems and take appropriate action if necessary.

(b) Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

As discussed herein, the Exchange believes that bitcoin qualifies as a “foreign currency” and, therefore, the proposed XBX Index Options qualify as a “security” as an option “entered into on a national securities exchange relating to foreign currency”⁴² that may be

³⁹ See Donald Trump and Robert F. Kennedy, Jr., announcements. [Donald Trump pledges to make US 'crypto capital of the planet' \(usatoday.com\)](https://www.usatoday.com/story/news/politics/economy/2024/07/28/donald-trump-pledges-to-make-us-crypto-capital-of-the-planet/123456789), published 10:54 a.m. ET July 28, 2024 and <https://thehill.com/business/4611426-rfk-jr-im-gonna-put-the-entire-u-s-budget-on-blockchain/>, published 11:46 a.m. ET April 22, 2024.

⁴⁰ 15 U.S.C. 78f(b).

⁴¹ 15 U.S.C. 78f(b)(5).

⁴² See note 28, *supra* (regarding Congress’s expansion of the definition of “security” to explicitly include

regulated by the SEC.⁴³ In fact, the SEC has approved for listing and trading on national securities exchanges various options on foreign currencies.⁴⁴ Because neither the Securities Act nor the Exchange Act define the term “foreign currency” as that term is used in the definition of “security,” the Exchange looks to its own rules on the definition of foreign currency, as compared to the rules of other national securities exchanges. The definition in both the Exchange’s rules as well as the rules of Nasdaq Phlx are consistent with viewing the XBX Index Options as a security.⁴⁵

Alternatively, as noted herein, the Exchange believes that its interpretation is supported by the well-established interpretive principle that statutes should be ascribed their plain meaning in the absence of any contrary guidance from Congress.⁴⁶ The ordinary meaning of “foreign currency” refers to “currency that is approved by another country’s government, though it may circulate as a medium of exchange elsewhere.”⁴⁷ As bitcoin has been approved as legal tender by the Salvadorian government, it easily meets the ordinary meaning of the term “foreign currency.” Thus, the Exchange believes the proposed XBX Index Options are options on a foreign currency that fall within the SEC’s broad authority over securities.

The Exchange recognizes that, prior to bitcoin being adopted as legal tender in El Salvador in 2021, the SEC had distinguished bitcoin from traditional fiat currency on the basis that bitcoin “does not have legal tender status in any jurisdiction.” The Exchange does not believe that this pre-2021 determination precludes the SEC from determining that bitcoin now qualifies as a foreign currency. In fact, in the wake of El Salvador’s designation of bitcoin as legal tender, at least one federal regulatory agency acknowledged that “[i]n certain contexts, virtual currency may serve one or more of the functions of ‘real’ currency.”⁴⁸ Additionally, as noted above, two U.S. presidential candidates for the 2024 election have accepted campaign donations in bitcoin.

For the reasons set forth above, the Exchange accordingly believes that the SEC should exercise its broad authority to regulate the proposed XBX Index Options on the basis that

“any put, call, straddle, option, or privilege on any security, certificate of deposit, or group of index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency”).

⁴³ As discussed herein, the Exchange believes that with Securities Acts Amendments of 1982, Congress expressly overrode the Seventh Circuit’s determination in Bd. of Trade of City of Chicago v. SEC that Section 2(a)(1) of the CEA vests in the CFTC exclusive jurisdiction over options instruments that are the subject of futures trading, including foreign currency). See note 30, supra.

⁴⁴ See e.g., Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change, 47 Fed. Reg. 49,946 (Oct. 21, 1982).

⁴⁵ See note 32, supra.

⁴⁶ See e.g., Burns v. Alcalá, 420 U.S. 575, 580 (1975) (finding that “words used in a statute are to be given their ordinary meaning in the absence of persuasive reasons to the contrary”).

⁴⁷ Foreign Currency, BLACK’S LAW DICTIONARY (11th ed. 2019).

⁴⁸ See note 38, supra.

for the purpose of the listing and trading of such options, bitcoin (and spot prices derived therefrom) should be treated as securities.

Furthermore, the Exchange believes that the introduction of XBX Index Options on the Exchange is designed to provide investors with an additional tool to manage their portfolio, whether by hedging or through diversification. Thus, the Exchange believes that the proposal to list and trade options on the XBX Index will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the XBX Index will provide investors with a greater opportunity to realize the benefits of utilizing index options based on spot bitcoin, including cost efficiencies and increased hedging strategies. In particular, the Exchange believes that offering options the XBX Index will benefit investors by providing them with an additional, relatively lower cost risk management tool allowing them to manage, more easily, their positions and associated risks, in their portfolios in connection with exposure to spot bitcoin.

In addition, by offering cash-settlement for XBX Index Options, the Exchange is affording investors the opportunity for a different method of settling index option contracts at expiration (i.e., cash versus physical settlement). The Exchange believes that market participants may prefer cash settlement because physical settlement poses risks with respect to volatility and movement of the underlying components at expiration that market participants may need to hedge against.

The Exchange notes that index options products have become more prominent in recent years, with much of the recent attention focused on volatility-based products.⁴⁹ The Exchange believes the proposal to list and trade XBX Index Options will further the Exchange's goal of introducing new and innovative products to the marketplace, which benefits the investing public. A robust and competitive market requires that exchanges respond to market participants' evolving needs by constantly improving their offerings. Such efforts would be stymied if exchanges were prohibited from offering innovative products. As such, the Exchange believes that introducing XBX Index Options would increase the variety of index options products available for trading, which may make the Exchange a more attractive venue for trading index options. The Exchange believes that the proposal to offer XBX Index Options would benefit investors by providing increased trading and hedging opportunities and flexibility while providing market participants greater opportunities to utilize index options for risk management.

As noted above, the Exchange believes that the XBX Index, and the methodology that will be used for determining the settlement price on options on the XBX Index, make it reasonably unlikely that a market participant could manipulate the settlement price of the

⁴⁹ See, e.g., Securities Exchange Act Release Nos. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade Options on the SPIKES™ Index); and 91781 (May 5, 2022), 86 FR 25918 (May 11, 2021) (SR-Phlx-2020-41) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Options on a Nasdaq-100 Volatility Index).

options. Additionally, the Exchange represents that trading XBX Index Options 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. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of XBX Index Options in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. Additionally, as stated in the filing, the Exchange has rules in place to protect public customer trading.

The Exchange also believes the proposal to permit options on the XBX Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, because options on the Index will comply with current Exchange rules as discussed herein. Specifically, XBX Index Options must comply with Exchange rules that currently govern the listing and trading of index options, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Accordingly, the proposed change will permit trading in XBX Index Options on the Exchange pursuant to rules designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. To the extent that the Exchange has herein proposed amendments to its rules to accommodate the listing of XBX Index Options, the Exchange notes that the proposed amendments would align Exchange rules with at least one other options exchange.⁵⁰

Finally, the Exchange represents that it has the necessary systems capacity to support the trading of options on the XBX Index.

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 not necessary or appropriate in furtherance of the purposes of the Act. Overall, the Exchange believes that the introduction of XBX Index Options will facilitate the listing and trading of a novel index option product that will enhance competition among market participants, to the benefit of investors and the marketplace.

Intramarket Competition: The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as options on the Index will be subject to Exchange rules that currently govern the listing and trading of index options, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Moreover, XBX Index Options will be equally available to all market participants who wish to trade such options.

⁵⁰ See, e.g., supra notes 14 (updating Rule 5.14-O to reflect that an index may be made up of “components” and not just “stocks”) and 15 (regarding the addition of XBX Index Options as European-style, P.M.-settled options).

Intermarket Competition: The Exchange does not believe the proposal will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that permitting XBX Index Options to trade on the Exchange may make the Exchange a more attractive marketplace to market participants, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their rules, as applicable, to permit them to list and trade options on indexes that track the value of bitcoin. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition, as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering options on an index that tracks the value of bitcoin for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with spot bitcoin prices and bitcoin-related products and positions, in a cash-settled product.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of the time period for Commission action.

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

Not applicable.

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

Not Applicable.

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

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 3-1 – Characteristic of the XBX Index

Exhibit 3-2 –Contract Specifications of the XBX Index

Exhibit 5 – Text of Proposed Rule Change

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSEARCA-2024-59)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Options that overlie the Value of the CoinDesk Bitcoin Price Index

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 August 16, 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 options that overlie the value of the CoinDesk Bitcoin Price Index, an index that measures the spot price of bitcoin. Options on the CoinDesk Bitcoin Price Index will be P.M., cash-settled contracts with European-style exercise provisions. 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend its rules for the listing and trading on the Exchange of options that overlie the value of the CoinDesk Bitcoin Price Index (the “XBX Index” or the “Index”), an index that measures the spot price of bitcoin.⁴ Options on the XBX Index will be P.M., cash-settled contracts with European-style exercise provisions (“XBX Index Options”).

To allow for the listing and trading of XBX Index Options, the Exchange proposes to amend Rule 5.14-O, “Dissemination of Information,” 5.15-O, “Position Limits for Broad-Based Index Options,” Rule 5.19-O, “Terms of Index Option Contracts,” Rule 5.20-O. “Trading Sessions,” Rule 5.22-O “Disclaimers,” and Rule 6.4-O. “Series of Options Open for Trading.”

Overview of the XBX Index

The XBX Index, which was launched in 2014, has the longest digital asset index track record and is calculated by CoinDesk Indices (“CDI”). The Index is a single-asset reference index that endeavors to provide an accurate and reliable USD-denominated composite reference rate for the spot (market) price of bitcoin in real-time (the “Index Price”). The Index tracks the spot price of bitcoin, in real time, across multiple crypto exchanges, and is calculated and published once per second, 24 hours per day, 365 days each year. The XBX Index currently

⁴ When capitalized, references to “Bitcoin” are to the Bitcoin network or the Bitcoin protocol, described below. When lowercase, references to “bitcoin” are to the digital asset native to the Bitcoin network measured by the Index.

serves as the benchmark for \$20 billion in ETF assets under management,⁵ including the Grayscale Bitcoin Trust (GBTC) (the “GBTC ETP”), which is listed on the Exchange.⁶

The Index is designed to (i) mitigate the effects of fraud, manipulation, and other anomalous trading activity from impacting the Index Price, (ii) provide a real time, volume-weighted fair value of bitcoin, and (iii) appropriately handle and adjust for non-market related events.

The proposed XBX Index Options would be based on the representative spot price of bitcoin as calculated by CoinDesk and would act as a hedging tool that enables investors to manage, more easily, their positions and associated risks, in their portfolios in connection with exposure to spot bitcoin.

Background on Bitcoin, the Bitcoin Network and Bitcoin Supply⁷

As described herein, the XBX Index derives a representative spot (market) price of bitcoin from multiple crypto exchanges using a proprietary algorithm. Bitcoin is a digital asset created and transmitted through the operations of the peer-to-peer “Bitcoin Network,” a decentralized network of computers that operates on cryptographic protocols and is collectively maintained by a user base.⁸ The Bitcoin Network allows people to exchange tokens of value,

⁵ See XBX Fact Sheet, available at <https://downloads.coindesk.com/cd3/CDI/XBX+Brochure.pdf>.

⁶ See *id.* The Exchange notes that the GBTC is a bitcoin-backed commodity ETF that tracks the prices of, and holds physical, bitcoin. GBTC is an ETF (or Exchange-Traded Fund Share). Although the GBTC overlies bitcoin, which is arguably a non-security commodity, ETFs are recognized securities that regularly trade on the Exchange. As discussed *infra*, the proposed XBX Index Options, like GBTC, would overlie bitcoin, and index options are recognized securities that regularly trade on the Exchange.

⁷ For a more detailed discussion of bitcoin, see the Exchange’s most-recent SEC filings in support of the GBTC Bitcoin ETP. See Securities Exchange Act Release No. 99298 (January 9, 2024), 89 FR 2661, 2664-65 (January 16, 2024) (SR-NYSEArca-2021-90) (Notice of Filing of Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the Grayscale Bitcoin Trust (BTC) under Rule 8.201–E (Commodity-Based Trust Shares)) (the “GBTC Bitcoin ETP Notice”).

⁸ A person wanting to own, transfer, or use bitcoin directly on the Bitcoin Network (as opposed to through an intermediary, such as a custodian) generally must have internet access and must install on its computer or mobile device a Bitcoin Network software program that enables the user to generate a private and public key pair associated with a Bitcoin address, commonly referred to as a “wallet.” The Bitcoin Network

called bitcoin, which are recorded on a public transaction ledger known as a Blockchain. Bitcoin can be used to pay for goods and services, or it can be converted into fiat currencies such as the U.S. dollar, at rates determined on “Digital Asset Markets”⁹ that trade bitcoin or in individual end-user-to-end-user transactions under a barter system.

The Bitcoin Network is decentralized in that it does not require governmental authorities or financial institution intermediaries to create, transmit, or determine the value of bitcoin. Rather, bitcoin is created and allocated by the Bitcoin Network protocol through a “mining” process that involves the encoding and decoding of data.¹⁰ New bitcoin are created and rewarded to the miners of a block in the Blockchain for verifying transactions. The Blockchain includes all blocks that have been mined by miners and it is updated to include new “blocks” of data as they are solved. To prevent the possibility of double-spending bitcoin, each bitcoin transaction is publicly broadcast to the Bitcoin Network and, when included in a block, recorded in the Blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Blockchain represents a complete, transparent, and unbroken history of all transactions of the Bitcoin Network.

software program and the bitcoin address also enable the user to connect to the Bitcoin Network and transfer bitcoin to, and receive bitcoin from, other users.

⁹ A “Digital Asset Market” is a “Brokered Market,” “Dealer Market,” “Principal-to-Principal Market,” or “Exchange Market,” as each such term is defined in the Financial Accounting Standards Board Accounting Standards Codification Master Glossary.

The “Digital Asset Trading Platform Market” is the global trading platform market for the trading of bitcoins, which consists of transactions on electronic Digital Asset Trading Platforms.

A “Digital Asset Trading Platform” is an electronic marketplace where participants may trade, buy and sell bitcoins based on bid-ask trading. The largest Digital Asset Trading Platforms are online and typically trade on a 24-hour basis, publishing transaction price and volume data.

¹⁰ Bitcoin mining is a network-wide competition to generate a cryptographic solution (by encoding and decoding data) that matches specific criteria. When a correct solution is reached, a reward in the form of bitcoin and fees for the work done is given to the miner(s) who reached the solution first. What Is Bitcoin Mining?, INVESTOPEDIA, <https://www.investopedia.com/terms/b/bitcoin-mining.asp>.

The value of bitcoin is determined by the supply of and demand for bitcoin. The supply of new bitcoin is mathematically controlled so that the number of bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Blockchain. On April 19, 2024, the fixed reward for solving a new block was decreased by half—from 6.25 bitcoin per block to 3.125 bitcoin per block—as a result of the most recent 210,000 blocks entering the Bitcoin Network. This deliberately controlled rate of bitcoin creation means that the number of bitcoin in existence will increase at a controlled rate until the number of bitcoin in existence reaches the pre-determined maximum 21 million bitcoin. As of July 10, 2024, approximately 19.72 million bitcoins were outstanding and the date when the 21 million bitcoin limitation will be reached is estimated to be the year 2140.

XBX Index Design, Methodology and Dissemination

The XBX Index derives a reference rate spot price of bitcoin in real-time by aggregating prices from crypto exchanges on which bitcoin is traded. The Exchange notes that the design of the Index would protect investors in the proposed XBX Index Options from fraudulent or manipulative practices. Specifically, as detailed below, the Index utilizes an algorithm that is designed to (i) mitigate the effects of fraud, manipulation, and other anomalous trading activity from impacting the Index Price, (ii) provide a real time, volume-weighted fair value of bitcoin, and (iii) appropriately handle and adjust for non-market related events. As noted herein, the Index serves as the benchmark for \$20 billion in ETF assets under management, including the GBTC Bitcoin ETP—an SEC-approved product.

The Index Price for XBX is determined by CoinDesk through a process in which trade data from multiple eligible spot crypto exchanges (“constituent exchanges”) is cleansed and

compiled in such a manner as to algorithmically reduce the impact of anomalous or manipulative trading. To accomplish this, CoinDesk applies a proprietary algorithm—the Constituent Weighting Adjustment Algorithm (“CWAA”)—that adjusts the weight of each data input based on price deviation relative to the observable set, as well as recent and long-term trading volume at each venue relative to the observable set.¹¹ As of April 1, 2024, the constituent exchanges were Bitstamp, Coinbase, Crypto.com, Kraken, and LMAX Digital.¹²

The CWAA methodology is designed to prevent manipulation of the spot price of bitcoin such that it impacts the Index Price. First, price manipulation would require a significant investment to accomplish, because to move prices would require investing capital into each constituent exchange such that the resulting trading volume would impact the spot price. Further, the CWAA is designed to down-weight outlier prices that make up the Index Price. As such, the hefty capital requirements taken together with the CWAA checks against outlier price(s), would likely deter efforts to manipulate the price of the XBX Index.

As depicted in the calculation below, for each one-second calculation, CWAA uses the most recently available trade data using a dynamic lookback period to compute a price and weight for each contributing exchange and uses these as inputs to calculate a weighted average price. The weighted-average spot price is calculated and published approximately once every second.¹³

¹¹ For more information about the CWAA, see CoinDesk Single Digital Asset Price Indices Methodology, as of April 2024 (“XBX Index Methodology”), available at <https://downloads.coindesk.com/cd3/CDI/CoinDesk+Single+Digital+Asset+Price+Indices+Methodology.pdf>. Constituent exchanges are weighted proportional to their trailing 24-hour liquidity with adjustments for price variance and inactivity. See *id.*

¹² The constituent exchanges used to calculate the XBX Index must meet certain eligibility requirements and be reviewed by CDI on a quarterly basis. Any changes resulting from the quarterly review are announced two weeks in advance of the effective date and are phased in over a 24-hour implementation period. See *id.*

¹³ Real-time Index values are calculated 24x7 and are available publicly at <https://coindesk.com/indices>.

The formula for deriving spot bitcoin prices for the Index is as follows:

Calculation Formula

$$\text{Index Value}_t = \sum_{i=1}^N P_{i,t} * W_{i,t}$$

Where:

Index Value_t = Index Value at time t
P_{i,t} = Price of trading pair (as calculated by the CWAA) on exchange i at time t
W_{i,t} = Weight of constituent exchange i at time t as determined by the CWAA
N = number of constituent exchanges

In the event the Index ceases to be maintained or calculated, or its values are not disseminated at least every second, the Exchange will not list any additional series for trading, and may, for the purpose of maintaining a fair and orderly market and protecting investors, limit transactions in certain options on the Index to closing transactions only.

The Exchange would ensure that the “current index value” of the XBX Index, as calculated by CDI, “is disseminated after the close of business and from time-to-time on days on which transactions in index options are made on the Exchange.”¹⁴ Consistent with its obligations, the Exchange would maintain publicly-available files regarding the calculation of the index and the method used to determine the current Index value.¹⁵

¹⁴ See Rule 5.14-O(a).

¹⁵ See Rule 5.14-O(b). The Exchange proposes to modify this Rule to replace the reference to “stocks” underlying an index with “components” to reflect that the components of an index is no longer restricted solely to stocks. See proposed Rule 5.14-O(b). The proposed change would align this Exchange rule with at least one other options exchange. See MIAX Rule 1803(b) (providing that MIAX will “maintain, in files available to the public, information identifying the *components* whose prices are the basis for calculation of the index and the method used to determine the current index value” (emphasis added)).

XBX Index Contract Specifications

As set forth in Exhibit 3-1, the following are the characteristics of the Index: (i) the initial Index value was 327.00 on November 4, 2014; (ii) the closing value of the Index value on was 56,494.00 on July 8, 2024; (iii) the lowest Index value since inception was 181.00 and occurred on January 14, 2015; and (iv) the highest Index value since inception was 73,462.59 and occurred on March 13, 2024.

The contract specifications for options on the Index are set forth in Exhibit 3-2. The Index is a broad-based index, as defined in Rule 5.10-O(b)(23), for the purpose of determining which of the Exchange's rules apply to options on the Index. Each XBX Index Option will be P.M.- and cash-settled with European-style exercise provisions, with trading in expiring options ending at 4:00 p.m. New York time on their Expiration Date.¹⁶ The Exchange believes that P.M. settlement is appropriate for XBX Index Options due to the nature of these indexes that encompass multiple markets around the world. Standard trading hours for index options (9:30 a.m. to 4:00 p.m., New York time) would apply to the Index.¹⁷

The Exchange proposes to apply margin requirements for the purchase and sale of options on the Index that are identical to those applied for other broad-based index options traded on the Exchange.¹⁸ The trading of XBX Index Options will be subject to the trading halt

¹⁶ See proposed Rules 5.19-O(a)(4)(A) (providing that XBX Index Options will be European-style P.M.-settled index options approved for trading on the Exchange) and (a)(8) (adding a provision describing the characteristic of "P.M.-Settled Index Options" for which "[t]he last day of trading will be the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day before its expiration date"). The Exchange notes that the rules of at least one other options exchange provide a nearly identical description of European-style, P.M.-settled options. See Nasdaq PHLX LLC ("Nasdaq Phlx"), Options 4A, Section 12 (Terms of Index Contracts) (a)(9) (providing that index options with European-style exercise may be P.M. settled) and (f) (describing characteristic of P.M.-settled options and listing the P.M.-settled index options approved for trading on Phlx).

¹⁷ See Rule 5.20-O(a) (Trading Sessions).

¹⁸ See Rule 5.25-O (Margins).

procedures applicable to index options traded on the Exchange.¹⁹

XBX Index Options will be quoted and traded in U.S. dollars.²⁰ The contract multiplier for XBX Index Options would be \$1. Further, XBX Index Options would be quoted in index points and one point would equal \$1. Initially, the Exchange would list in-, at-, and out-of-the-money strike prices. Additional series may be opened for trading as the underlying Index level moves up or down.²¹ The minimum strike price interval for XBX Index Options series would be \$0.50 or greater if the strike price is less than \$15.00; \$1.00 or greater if the strike price is between \$15.00 and \$200; and \$5.00 or greater if the strike price is greater than \$200.²² The Exchange believes that \$0.50 and \$1 strike price intervals will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives. New series of index option contracts may be added up to, but not on or after, the fourth business day prior to expiration for an option contract expiring on a business day, or, in the case of an option contract expiring on a day that is not a business day, the fifth business day prior to expiration.²³

The Exchange would also be permitted to list up to ten expirations in Long-Term Index Option Series (“LEAPS”) on the Index and the XBX Index would be eligible for all other expirations permitted for other broad-based indexes, e.g., Short Term Option Series and

¹⁹ See Rule 5.20-O(c).

²⁰ See Rule 5.19-O(a)(1).

²¹ See Rule 5.19-O(c)(4). The rule sets forth the criteria for listing additional series of the same class as the current value of the underlying index moves. Generally, additional series must be “reasonably related” to the current index value, which means that strike prices must be within 30% of the current index value. Series exceeding the 30% range may be listed based on demonstrated customer interest.

²² See proposed Commentary .15 to Rule 6.4-O. The Exchange notes that these values would be identical to the minimum strike price intervals for index options available on another exchange. See Cboe Exchange, Inc., Cboe VIX Options Product Specifications, available at https://www.cboe.com/tradable_products/vix/vix_options/specifications/.

²³ See Rule 5.19-O(c)(2).

Quarterly Option Series.²⁴

Exercise and Settlement Value

The exercise and settlement value will be the official closing value of the XBX Index as reported by CDI on the last trading day of the expiring contract.²⁵ Expiring XBX Index Options series ends at 4:00 P.M on their Expiration Date. When the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

The exercise settlement amount would be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier (\$1). The XBX Index Options would expire on the third Friday of the expiring month. Exercise would result in delivery of cash on the business day following expiration. XBX Index Options would be P.M.-settled. If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of The Options Clearing Corporation (“OCC”).²⁶

In regards to potential liability relating to any errors, omissions, or delays in calculating or disseminating the current settlement value or closing settlement value of the XBX Index, the Exchange proposes to modify Rule 5.22-O (Disclaimers) to specify the conditions under which

²⁴ See e.g., Rules 5.19-O(b) (Index LEAPS Options Series), 6.4-O, Commentary .07 (Short Term Option Series) and 6.1-O, Commentary .08 (Quarterly Option Series).

²⁵ See proposed amendment to Rule 5.22-O, Commentary .01, to identify CoinDesk Indices, Inc., as the Reporting Authority for the XBX. As the designated Reporting Authority for each of these indexes, the disclaimers set forth in Rule 5.22-O (Disclaimers) would apply to CoinDesk, Inc.

²⁶ As noted herein, options on the XBX Index would not be available for trading until OCC represents to the Exchange that it is fully able to clear and settle such options. As such, this statement about exercise and settlement value in relation to the OCC assumes that the OCC concludes that it may clear XBX Index Options.

such liability is limited.²⁷ This proposed limitation of liability for the calculation and dissemination of the settlement value(s) of options contracts overlying foreign currencies mirrors another Exchange rule, as well as one other options exchange, and is therefore not new or novel.²⁸

Position and Exercise Limits

The Exchange proposes to amend Rule 5.15-O(a) to establish position limits for XBX Index Options equal to 250,000 contracts on the same side of the market, restricted to no more than 150,000 near-term contracts, which is consistent with position limits for broad-based index options. Additionally, pursuant to Rule 5.14-O, the exercise limits for XBX Index Options would be equivalent to the position limits for XBX Index Options. All position limit hedge exemptions applicable to broad-based index options would also apply.

Margin

The Exchange proposes to apply margin requirements for the purchase and sale of XBX Index Options that are identical to those applied for its other broad-based index options. Specifically, the Exchange proposes, pursuant to Rule 5.25-O(b)(1), the margin requirement for a

²⁷ See proposed Rule 5.22-O(b) (“Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including, but not limited to, and act of God; fire; flood; extraordinary weather conditions; terrorism; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying components or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange or the Reporting Authority.”). Consistent with this change, the Exchange proposes to re-number current paragraph (b) to new paragraph (c). See proposed Rule 5.22-O(c).

²⁸ See Rule 5.81-O(b) (providing that, for options on foreign currencies, neither the Exchange nor the Reporting Authority have liability stemming from the calculation and dissemination of the “current settlement value or the closing settlement value”). See also Nasdaq PHLX Rule 4(c), Section 6 (providing that, for the closing settlement value of “U.S. Dollar-Settled Foreign Currency Options,” neither Nasdaq Phlx nor the “Reporting Authority” have liability stemming from the calculation and dissemination of such value).

short put or call shall be 100% of the current market value of the contract plus 15% of the index value times the index multiplier, reduced by any out-of-the-money amount. There would be a minimum margin requirement of 100% of the current market value of the contract plus 10% of the index value times the index multiplier.

Sales Practice Rules

The trading of XBX Index Options would be subject to the same sales practice rules that presently govern the trading of Exchange index options.

Rule 9.18-O(b), "Opening of Accounts," is designed to protect public customer trading and will apply to trading in XBX Index Options. Specifically, Rule 9.18-O(b) prohibits an OTP Firm or OTP Holder from accepting a customer order to purchase or write an option, including XBX Index Options, unless such customer's account has been approved in writing by a Registered Options Principal. Additionally, Rule 9.18-O(c), "Suitability," is designed to ensure that options, including XBX Index Options, are only sold to customers capable of evaluating and bearing the risks associated with trading in these securities. Further, Rule 9.18-O(e), "Discretionary Accounts," permits an OTP Firm or OTP Holder to exercise discretionary power with respect to trading options, including XBX Index Options, in a customer's account only if the customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. Rule 9.18-O(e) also requires a record to be made of every option transaction for an account in respect to which an OTP Firm or OTP Holder is vested with discretionary authority, such record to include the name of the customer, the designation, number of contracts and premium of the option contracts, the date and time when such transaction took place, and clearly reflecting the fact that discretionary authority was exercised. Finally, Rule 9.18-O(d), "Supervision of Accounts," Rule 9.18-O(f), "Confirmations," and Rule 9.18-O(g),

“Delivery of Current Options Disclosure Document and Prospectus,” will also apply to trading of XBX Index Options.

Surveillance and Capacity

As noted above, the Exchange believes that the XBX Index, and the methodology that will be used for determining the settlement price on options on the XBX Index, make it reasonably unlikely that a market participant could manipulate the settlement price of the options by trading on the exchanges that contribute to XBX.

Additionally, the Exchange represents that trading XBX Index Options 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. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of XBX Index Options 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 include surveillances that 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 XBX Index Options with other markets and other entities that are members of the Intermarket Surveillance Group, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the XBX Index Options

from such markets and other entities. In addition, the Exchange may obtain information regarding trading XBX Index Options from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement.

Finally, the Exchange represents that it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading of options on the Index.

Legal Analysis

The Exchange believes that, for purposes of this proposal, bitcoin qualifies as a “foreign currency” and, therefore, the proposed XBX Index Options would qualify as a “security” as an “option . . . entered into on a national securities exchange relating to foreign currency.”²⁹

As a threshold matter, Congress with the Securities Acts Amendments of 1982 amended the definition of “security” under the Securities Act of 1933 (“Securities Act”) and the Exchange Act to include “any put, call, straddle, option, or privilege on any security, certificate of deposit, or group of index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency.”³⁰ The Exchange believes that, with these amendments, Congress expressly overrode the Seventh Circuit’s determination in *Bd. of Trade of City of Chicago v. SEC* that Section 2(a)(1) of the Commodity Exchange Act vests in the Commodity Futures Trading Commission (“CFTC”) exclusive jurisdiction over options instruments that are the subject of futures trading, including foreign currency.³¹

²⁹ See 15 U.S.C. § 77b(a)(1) (Section 2(a)(1) of the Securities Act) and 15 U.S.C. § 78c(a)(10) (Section 3(a)(10) of the Exchange Act).

³⁰ Id.

³¹ See *Bd. of Trade of City of Chicago v. SEC*, 677 F.2d 1137 (7th Cir.), cert. granted, judgment vacated sub nom. *Chicago Bd. Options Exch., Inc. v. Bd. of Trade of City of Chicago*, 459 U.S. 1026 (1982), and cert.

Pursuant to this statutory authority, the SEC since 1982 has approved for listing and trading on national securities exchanges various options on foreign currencies.³² However, neither the Securities Act nor the Exchange Act further defines the term “foreign currency” as that term is used in the definition of “security.” In the absence of a statutory definition or relevant legislative history, it is therefore instructive to look to the definition of “foreign currency” adopted by national securities exchanges that the SEC has approved the trading of foreign currency options on.

Importantly, the Exchange defines “foreign currency” in its rules as “the standard unit of the official medium of exchange of a sovereign government including the United States Government or the official medium of exchange of the European Economic Community’s European Monetary System.”³³ The Exchange believes that bitcoin unambiguously meets the Exchange’s definition of “foreign currency” as defined in its rules because bitcoin is the standard unit of the official medium of exchange of at least one sovereign government. Specifically, El

granted, judgment vacated sub nom. SEC v. Bd. of Trade of City of Chicago, 459 U.S. 1026 (1982).

³² See e.g., Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change, 47 Fed. Reg. 49,946 (Oct. 21, 1982). Foreign currencies are commodities. See [What Are Commodities and Understanding Their Role in the Stock Market, INVESTOPEDIA, https://www.investopedia.com/terms/c/commodity.asp](https://www.investopedia.com/terms/c/commodity.asp).

³³ See Rule 5.71-O, available at <https://nysearca.wolterskluwer.cloud/rules/b6147f6e7cd410008c17d8d385ad1694038?searchId=2326179527>. Similarly, another national securities exchange, Nasdaq PHLX, defines “foreign currency” in its rules as “the standard unit of the official medium of exchange of a sovereign government, including the United States Government (e.g., the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, the Swedish krona, or the United States dollar) or the Euro.” See Nasdaq PHLX Options Rule 1(b)(23), available at <https://listingcenter.nasdaq.com/rulebook/PHLX/rules/Phlx%20Options%201/>. Note that when the then-Philadelphia Stock Exchange, Inc., originally proposed to list foreign currency options in 1981, it specifically also proposed to amend its rules to “address the possibility, however remote, that the issuer of an existing underlying foreign currency may introduce a new currency intended to replace its existing currency as its standard unit of exchange.” See Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Proposal to Establish an Exchange Market in Standardized Options on Foreign Currencies, 46 Fed. Reg. 20,348, 20,352 (Apr. 3, 1981). The SEC approved the proposed rule changes. See 47 Fed. Reg. 49,946 (Oct. 21, 1982).

Salvador in September 2021 adopted bitcoin as unrestricted legal tender in the country, formally requiring bitcoin to be accepted as a means of payment.³⁴ As of the date of this application, bitcoin remains legal tender in El Salvador.

Alternatively, the Exchange believes that the well-established interpretive principle that statutes should be given their plain meaning in the absence of any contrary guidance from Congress supports the Exchange's interpretation of "foreign currency."³⁵ The ordinary meaning of "foreign currency" encompasses "currency that is approved by another country's government, though it may circulate as a medium of exchange elsewhere."³⁶ As bitcoin has been approved as legal tender by the Salvadorian government, it easily meets the ordinary meaning of the term "foreign currency." Thus, the Exchange believes that, solely for the purpose of the current proposal, XBX Index Options would qualify as options on a foreign currency that fall within the SEC's authority over securities.³⁷

³⁴ Oscar Lopez and Ephrat Livni, El Salvador Becomes First Country to Adopt Bitcoin as Nation Currency, N. Y. TIMES (Sept. 7, 2021), available at https://www.nytimes.com/2021/09/07/world/americas/el-salvador-bitcoin.html?unlocked_article_code=1.xE0.IQ1z.tiwOWwD4KdpE&smid=nytcore-ios-share&referringSource=articleShare&u2g=i.

³⁵ See e.g., Burns v. Alcalá, 420 U.S. 575, 580 (1975) (finding that "words used in a statute are to be given their ordinary meaning in the absence of persuasive reasons to the contrary").

³⁶ Foreign Currency, BLACK'S LAW DICTIONARY (11th ed. 2019).

³⁷ The Exchange is neither challenging the CFTC's classification of bitcoin as a commodity nor requesting that the Commission encroach on the CFTC's jurisdiction. Instead, the proposal seeks a context-specific determination whereby bitcoin is viewed as a foreign currency such that options on bitcoin -- i.e., the proposed XBX Index Options -- qualify as a security. In fact, the Commission has observed that "the analysis of whether something is a security is not static and does not strictly inhere to the instrument" and that "[e]ven digital assets with utility that function solely as a means of exchange in a decentralized network could be packaged and sold as an investment strategy that can be a security." See Speech by William Hinman, SEC, Director, Division of Corporate Finance, on June 14, 2018, Digital Asset Transactions: When Howey Met Gary (Plastic), available here: https://www.sec.gov/news/speech/speech-hinman-061418#_ftnref4. The Exchange believes that the opposite is also true: that whether bitcoin is a commodity is not static and depends on how it is packaged and sold. Here, the proposed XBX Index Options are options overlying bitcoin (and the spot price thereof) as a foreign currency and, strictly for purposes of this proposal, should be deemed to be a security.

The Exchange recognizes that, prior to bitcoin being adopted as legal tender in El Salvador in 2021, the SEC had distinguished bitcoin -- a virtual currency -- from traditional fiat currency on the basis that bitcoin “does not have legal tender status (i.e., when tendered to a creditor, is a valid and legal offer of payment) in any jurisdiction.”³⁸ The Exchange does not believe that this pre-2021 position precludes the SEC from determining that bitcoin now qualifies as a foreign currency. In fact, in the wake of El Salvador’s designation of bitcoin as legal tender, at least one federal regulatory agency acknowledged that “[i]n certain contexts, virtual currency may serve one or more of the functions of ‘real’ currency -- i.e., the coin and paper money of the United States or of any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance.”³⁹ Moreover, two U.S. presidential candidates for the 2024 election have accepted campaign donations in bitcoin, with one recently announcing that its campaign has raised \$25 million in bitcoin and other virtual currencies.⁴⁰

For the reasons set forth above, the Exchange accordingly believes that the SEC should exercise its authority to regulate the proposed XBX Index Options on the basis that, for the purpose of the listing and trading of such options, bitcoin (and spot prices derived therefrom)

³⁸ See In re Bitcoin Inv. Tr., Release No. 34-78282, 2016 WL 4363462, at *1 n.1 (July 11, 2016); In re Btc Trading, Corp., Release No. 34-9685, at 2014 WL 6872955, at *1 n.1 (Dec. 8, 2014); In re Voorhees, Release No. 34-9592, 2014 WL 2465620, at *1 n.1 (June 3, 2014). The CFTC made this same distinction prior to El Salvador’s adoption of bitcoin as legal tender. See In the Matter of Coinflip, Inc., 2015 WL 5535736, at *5 n. 2 (2015) (“Bitcoin and other virtual currencies are distinct from ‘real’ currencies, which are the coin and paper money of the United States or another country that are designated as legal tender, circulate, and are customarily used and accepted as a medium of exchange in the country of issuance”).

³⁹ See Internal Revenue Service, Notice 2023-34, available at <https://www.irs.gov/pub/irs-drop/n-23-34.pdf> (guidance clarifying that convertible virtual currency (including bitcoin) is treated as property (as opposed to currency) for U.S. federal tax purposes).

⁴⁰ See Donald Trump and Robert F. Kennedy, Jr., announcements. [Donald Trump pledges to make US 'crypto capital of the planet' \(usatoday.com\)](https://www.usatoday.com/story/news/politics/election/2024/07/28/donald-trump-pledges-to-make-us-crypto-capital-of-the-planet/123456789), published 10:54 a.m. ET July 28, 2024 and <https://thehill.com/business/4611426-rfk-jr-im-gonna-put-the-entire-u-s-budget-on-blockchain/>, published 11:46 a.m. ET April 22, 2024.

should be treated as securities.

The Exchange notes that additional approvals may be necessary to trade XBX Index Options. In particular, options on the XBX Index would not be available for trading until OCC represents to the Exchange that it is fully able to clear and settle such options. The Exchange has also analyzed its systems and represents that it and The Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing of XBX Index Options. Because the proposal is limited to one new class, the Exchange believes that the additional traffic that would be generated from the introduction of XBX Index Options would be manageable and well within any systems capacity capabilities. The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on the capacity of the Exchange’s automated systems and take appropriate action if necessary.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴² in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not

⁴¹ 15 U.S.C. 78f(b).

⁴² 15 U.S.C. 78f(b)(5).

designed to permit unfair discrimination between customers, issuers, brokers or dealers.

As discussed herein, the Exchange believes that bitcoin qualifies as a “foreign currency” and, therefore, the proposed XBX Index Options qualify as a “security” as an option “entered into on a national securities exchange relating to foreign currency”⁴³ that may be regulated by the SEC.⁴⁴ In fact, the SEC has approved for listing and trading on national securities exchanges various options on foreign currencies.⁴⁵ Because neither the Securities Act nor the Exchange Act define the term “foreign currency” as that term is used in the definition of “security,” the Exchange looks to its own rules on the definition of foreign currency, as compared to the rules of other national securities exchanges. The definition in both the Exchange’s rules as well as the rules of Nasdaq Phlx are consistent with viewing the XBX Index Options as a security.⁴⁶

Alternatively, as noted herein, the Exchange believes that its interpretation is supported by the well-established interpretive principle that statutes should be ascribed their plain meaning in the absence of any contrary guidance from Congress.⁴⁷ The ordinary meaning of “foreign currency” refers to “currency that is approved by another country’s government, though it may circulate as a medium of exchange elsewhere.”⁴⁸ As bitcoin has been approved as legal tender by

⁴³ See note 29, *supra* (regarding Congress’s expansion of the definition of “security” to explicitly include “any put, call, straddle, option, or privilege on any security, certificate of deposit, or group of index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency”).

⁴⁴ As discussed herein, the Exchange believes that with Securities Acts Amendments of 1982, Congress expressly overrode the Seventh Circuit’s determination in *Bd. of Trade of City of Chicago v. SEC* that Section 2(a)(1) of the CEA vests in the CFTC exclusive jurisdiction over options instruments that are the subject of futures trading, including foreign currency). See note 31, *supra*.

⁴⁵ See e.g., Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change, 47 Fed. Reg. 49,946 (Oct. 21, 1982).

⁴⁶ See note 33, *supra*.

⁴⁷ See e.g., *Burns v. Alcala*, 420 U.S. 575, 580 (1975) (finding that “words used in a statute are to be given their ordinary meaning in the absence of persuasive reasons to the contrary”).

⁴⁸ Foreign Currency, BLACK’S LAW DICTIONARY (11th ed. 2019).

the Salvadorian government, it easily meets the ordinary meaning of the term “foreign currency.” Thus, the Exchange believes the proposed XBX Index Options are options on a foreign currency that fall within the SEC’s broad authority over securities.

The Exchange recognizes that, prior to bitcoin being adopted as legal tender in El Salvador in 2021, the SEC had distinguished bitcoin from traditional fiat currency on the basis that bitcoin “does not have legal tender status in any jurisdiction.” The Exchange does not believe that this pre-2021 determination precludes the SEC from determining that bitcoin now qualifies as a foreign currency. In fact, in the wake of El Salvador’s designation of bitcoin as legal tender, at least one federal regulatory agency acknowledged that “[i]n certain contexts, virtual currency may serve one or more of the functions of ‘real’ currency.”⁴⁹ Additionally, as noted above, two U.S. presidential candidates for the 2024 election have accepted campaign donations in bitcoin.

For the reasons set forth above, the Exchange accordingly believes that the SEC should exercise its broad authority to regulate the proposed XBX Index Options on the basis that for the purpose of the listing and trading of such options, bitcoin (and spot prices derived therefrom) should be treated as securities.

Furthermore, the Exchange believes that the introduction of XBX Index Options on the Exchange is designed to provide investors with an additional tool to manage their portfolio, whether by hedging or through diversification. Thus, the Exchange believes that the proposal to list and trade options on the XBX Index will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the XBX Index will provide investors with a greater opportunity to realize

⁴⁹ See note 39, supra.

the benefits of utilizing index options based on spot bitcoin, including cost efficiencies and increased hedging strategies. In particular, the Exchange believes that offering options the XBX Index will benefit investors by providing them with an additional, relatively lower cost risk management tool allowing them to manage, more easily, their positions and associated risks, in their portfolios in connection with exposure to spot bitcoin.

In addition, by offering cash-settlement for XBX Index Options, the Exchange is affording investors the opportunity for a different method of settling index option contracts at expiration (i.e., cash versus physical settlement). The Exchange believes that market participants may prefer cash settlement because physical settlement poses risks with respect to volatility and movement of the underlying components at expiration that market participants may need to hedge against.

The Exchange notes that index options products have become more prominent in recent years, with much of the recent attention focused on volatility-based products.⁵⁰ The Exchange believes the proposal to list and trade XBX Index Options will further the Exchange's goal of introducing new and innovative products to the marketplace, which benefits the investing public. A robust and competitive market requires that exchanges respond to market participants' evolving needs by constantly improving their offerings. Such efforts would be stymied if exchanges were prohibited from offering innovative products. As such, the Exchange believes that introducing XBX Index Options would increase the variety of index options products available for trading, which may make the Exchange a more attractive venue for trading index

⁵⁰ See, e.g., Securities Exchange Act Release Nos. 84417 (October 12, 2018), [83 FR 52865](#) (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade Options on the SPIKES™ Index); and 91781 (May 5, 2021), 86 FR 25918 (May 11, 2021) (SR-Phlx-2020-41) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Options on a Nasdaq-100 Volatility Index).

options. The Exchange believes that the proposal to offer XBX Index Options would benefit investors by providing increased trading and hedging opportunities and flexibility while providing market participants greater opportunities to utilize index options for risk management.

As noted above, the Exchange believes that the XBX Index, and the methodology that will be used for determining the settlement price on options on the XBX Index, make it reasonably unlikely that a market participant could manipulate the settlement price of the options. Additionally, the Exchange represents that trading XBX Index Options 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. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of XBX Index Options in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. Additionally, as stated in the filing, the Exchange has rules in place to protect public customer trading.

The Exchange also believes the proposal to permit options on the XBX Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, because options on the Index will comply with current Exchange rules as discussed herein. Specifically, XBX Index Options must comply with Exchange rules that currently govern the listing and trading of index options, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Accordingly, the proposed change will permit trading in XBX Index Options on the Exchange pursuant to rules designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. To the extent that the Exchange has herein proposed

amendments to its rules to accommodate the listing of XBX Index Options, the Exchange notes that the proposed amendments would align Exchange rules with at least one other options exchange.⁵¹

Finally, the Exchange represents that it has the necessary systems capacity to support the trading of options on the XBX Index.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Overall, the Exchange believes that the introduction of XBX Index Options will facilitate the listing and trading of a novel index option product that will enhance competition among market participants, to the benefit of investors and the marketplace.

Intramarket Competition: The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as options on the Index will be subject to Exchange rules that currently govern the listing and trading of index options, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements.

Moreover, XBX Index Options will be equally available to all market participants who wish to trade such options.

Intermarket Competition: The Exchange does not believe the proposal will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that permitting XBX Index Options to trade on the Exchange

⁵¹ See, e.g., *supra* notes 15 (updating Rule 5.14-O to reflect that an index may be made up of “components” and not just “stocks”) and 15 (regarding the addition of XBX Index Options as European-style, P.M.-settled options).

may make the Exchange a more attractive marketplace to market participants, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their rules, as applicable, to permit them to list and trade options on indexes that track the value of bitcoin. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition, as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering options on an index that tracks the value of bitcoin for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with spot bitcoin prices and bitcoin-related products and positions, in a cash-settled product.

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-2024-59 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-2024-59. 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-2024-59 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.⁵²

Sherry R. Haywood,

Assistant Secretary.

⁵² 17 CFR 200.30-3(a)(12).

Characteristics of the XBX Index

Components	The XBX Index values are derived from real-time spot prices of Bitcoin (BTC) from multiple constituent exchanges. Each constituent exchange is weighted proportionally to its trailing 24-hour liquidity with adjustments for price variance and inactivity. As of April 1, 2024, the constituent exchanges are Bitstamp, Coinbase, Crypto.com, Kraken, and LMAX Digital.
Initial Index Value (as of 4pm close (New York Time) on November 4, 2014)	327.00
Index Closing Value (as of 4pm close (New York Time) on August 7, 2024)	54,747.00
Lowest Index Value (as of 4pm close (New York Time) on January 14, 2015)	181.00
Highest Index Value (as of 4pm close (New York Time) on March 13, 2024)	73,462.59

Contract Specifications of the XBX Index

Description	The CoinDesk Bitcoin Price Index (XBX) provides a USD-denominated reference rate for the spot price of Bitcoin (BTC).
Recent Level (as of July 8, 2024)	54,747.00
Symbol	XBXO
Multiplier	\$1
Strike Interval	Minimum strike price intervals are set at \$0.50 where the strike price is less than \$15, \$1 or greater where the strike price is between \$15 and \$200, and \$5 or greater where the strike price is greater than \$200
Minimum Trading Increment	\$0.05 for series trading below \$3.00 and \$0.10 for series trading at or above \$3.00
Expiration Date	The third Friday of the expiration month
Expiration Month	Up to twelve expiration months. Short-term, quarterly and LEAPS may also be available
Exercise Style	European and P.M.-settled.
Last Trading Day	Trading in expiring options on XBX ends at 4:00 p.m. (New York time) on the business day of their Expiration Date.
Settlement Type	Cash
CUSIP	TBD
Settlement Value	The exercise and settlement value will be the official closing value of the XBX Index as reported by CoinDesk Indices on the last trading day of the expiring contract. The exercise-settlement amount is equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by \$1.
Settlement of Exercise	Next business day following expiration
Position and Exercise Limits	Position limits for XBX Index Options would be equal to 250,000 contracts on the same side of the market with no more than 150,000 near-term contracts. Exercise limits for XBX Index Options would be equivalent to its position limits.
Margin	Margin requirements for the purchase and sale of options on the XBX are identical to those applied for broad-based index options
Trading Hours	9:30 a.m. - 4:00 p.m. Eastern Time (New York time)

New text is underlined;
Deleted text is in [brackets]

Rules of NYSE Arca, Inc.

RULE 5-O OPTION CONTRACTS TRADED ON THE EXCHANGE

Section 3. Stock Index Options

Rule 5.14-O. Dissemination of Information

(b)The Exchange shall maintain, in files available to the public, information identifying the [stocks]components whose prices are the basis for calculation of the index and the method used to determine the current index value.

Rule 5.15-O. Position Limits for Broad-Based Index Options

(a) Rule 6.8-O generally shall govern position limits for broad-based index options, as modified by this Rule 5.15-O. Except otherwise indicated below, the position limit for a broad-based index option shall be 25,000 contracts on the same side of the market in the same underlying index. There may be no position limit for certain Specified (as provided in Rule 5.15-O(a)(1)) broad-based index option contracts. Reduced-value options on broad based security indexes for which full-value options have no position and exercise limits will similarly have no position and exercise limits. All other broad-based index options contracts shall be subject to a contract limitation fixed by the Exchange, which shall not be larger than the limits provided in the chart below:

<i>Broad-Based Underlying Index</i>	<i>Standard Limit (on the same side of the market)</i>	<i>Restrictions</i>
Mini FTSE 100 Index	250,000 contracts	No more than 150,000 near-term
Mini FTSE 250 Index	250,000 contracts	No more than 150,000 near-term
<u>XBX Index</u>	<u>250,000 contracts</u>	<u>No more than 150,000 near-term</u>

Rule 5.19-O. Terms of Index Option Contracts

(a) General

(1) *Meaning of Premium Bids and Offers.* Bids and offers shall be expressed in terms of dollars and cents per unit of the index.

(2) *Exercise Prices.* The Exchange shall determine fixed point intervals of exercise prices for call and put options.

(3) *Expiration Months.* Index Option contracts may expire at three (3) month intervals or in consecutive months. The Exchange may list up to six (6) months at any one time, but will not list index options that expire more than twelve (12) months out.

(A) Notwithstanding the restriction in section (a)(3) above, the Exchange may list up to seven expiration months at any one time for any broad-based security index option contracts (e.g., NDX, RUT) upon which any exchange calculates a constant three-month volatility index.

(4) *“European-Style Exercise.”* [Specified] The following European-style index options, some of which may be A.M.-settled as provided in subsection (a)(7) below, may be approved for trading on the Exchange[.]:

(A) XBX Index (P.M.-settled)

(8) P.M.-Settled Index Options. The last day of trading for P.M.-settled index options will be the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day before its expiration date. The following P.M.-settled index options are approved for trading on the Exchange:

(A) XBX Index

Rule 5.22-O. Disclaimers

(b) Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting

from an act, condition, or cause beyond the reasonable control of the Exchange including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; terrorism; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying components or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange or the Reporting Authority.

[(b)](c) *Applicability of Disclaimers.* The disclaimers in subsection (a) shall apply to the reporting authorities identified in the Commentary to this Rule.

Commentary:

.01 The reporting authorities designated by the Exchange in respect of each index underlying an index options contract traded on the Exchange are as provided in the chart below.

Underlying Index	Reporting Authority
FTSE 100 Index	FTSE International Limited
FTSE 250 Index	FTSE International Limited
NASDAQ-100 Index	NASDAQ OMX Group, Inc.
Mini Nasdaq-100 Index	NASDAQ OMX Group, Inc.
<u>XBX Index</u>	<u>CoinDesk Indices, Inc.</u>

Rule 6.4-O. Series of Options Open for Trading

Commentary:

.15. *XBX Index Options.* Notwithstanding any other provision of this Rule 6.4-O, the interval between strike prices on XBX Index Options will be \$0.50 or greater if the strike price is less than \$15.00; \$1.00 or greater if the strike price is between \$15.00 and \$200; and \$5.00 or greater if the strike price is greater than \$200.
