

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-2023-58 and should be submitted on or before October 24, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹¹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98559; File No. SR-OCC-2023-003]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, Concerning Clearing Member Cybersecurity Obligations

September 27, 2023.

On March 21, 2023, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2023-003 pursuant to Section 19(b) of the

Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4² thereunder to amend certain provisions in OCC's Rules relating to each Clearing Member's obligation to address a "Security Incident" (i.e., the occurrence of a cyber-related disruption or intrusion) of that Clearing Member.³ The proposed rule change was published for public comment in the **Federal Register** on April 5, 2023.⁴ The Commission has received comments regarding the proposed rule change.⁵

On May 18, 2023, pursuant to Section 19(b)(2) of the Exchange Act,⁶ the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁷ On May 24, 2023, OCC filed Partial Amendment No. 1 to the proposed rule change.⁸ On July 3, 2023, the Commission instituted proceedings, pursuant to Section 19(b)(2)(B) of the Exchange Act,⁹ to determine whether to approve or disapprove the Proposed Rule Change, as modified by Partial Amendment No. 1 (hereinafter defined as "Proposed Rule Change").¹⁰

Section 19(b)(2) of the Exchange Act¹¹ provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.¹² The 180th day after publication of the Notice in the **Federal Register** is October 2, 2023.

The Commission is extending the period for Commission action on the Proposed Rule Change. The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Notice of Filing *infra* note 4, at 88 FR at 20195.

⁴ Securities Exchange Act Release No. 97225 (Mar. 30, 2023), 88 FR 20195 (Apr. 5, 2023) (File No. SR-OCC-2023-003) ("Notice of Filing").

⁵ Comments on the proposed rule change are available at <https://www.sec.gov/comments/sr-occ-2023-003/srocc2023003.htm>.

⁶ 15 U.S.C. 78s(b)(2).

⁷ Securities Exchange Act Release No. 97525 (May 18, 2023), 88 FR 33655 (May 24, 2023) (File No. SR-OCC-2023-003).

⁸ Securities Exchange Act Release No. 97602 (May 26, 2023), 88 FR 36351 (Jun. 2, 2023) (File No. SR-OCC-2023-003) ("Partial Amendment No. 1").

⁹ 15 U.S.C. 78s(b)(2)(B).

¹⁰ Securities Exchange Act Release No. 97832 (July 3, 2023), 88 FR 43640 (July 10, 2023) (File No. SR-OCC-2023-003).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 15 U.S.C. 78s(b)(2)(B)(ii)(II).

finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that the Commission has sufficient time to consider the issues raised by the Proposed Rule Change and to take action on the Proposed Rule Change. Accordingly, pursuant to Section 19(b)(2)(B)(ii)(II) of the Exchange Act,¹³ the Commission designates December 1, 2023, as the date by which the Commission should either approve or disapprove the Proposed Rule Change SR-OCC-2023-003.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98572; File No. SR-ICC-2023-013]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to ICC's Treasury Operations Policies and Procedures

September 27, 2023.

I. Introduction

On August 15, 2023, ICE Clear Credit LLC ("ICC"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the ICC Treasury Operations Policies and Procedures ("Treasury Policy"). The proposed rule change was published for comment in the **Federal Register** on August 28, 2023.³ The Commission has not received any comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC is registered with the Commission as a clearing agency for the purpose of

¹³ *Id.*

¹⁴ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 98200 (Aug. 22, 2023), 88 FR 58628 (Aug. 28, 2023) (File No. SR-ICC-2023-013) ("Notice").

⁹¹ 17 CFR 200.30-3(a)(12).

clearing CDS contracts.⁴ ICC requires that its Clearing Participants post margin to collateralize their credit exposure to ICC, based on the size and risk of their cleared positions. On a daily basis, ICC determines margin requirements (i) for a Clearing Participant's own cleared positions (referred to as "house" positions) and (ii) for the cleared positions of its clients. ICC also requires that Clearing Participants contribute to its Guaranty Fund.

ICC's Treasury Department is responsible for daily cash and collateral management of margin and Guaranty Fund assets, including Client-Related Initial Margin assets.⁵ The Treasury Policy contains policies and procedures that aid the ICC Treasury Department in carrying out these responsibilities.⁶

Aside from non-substantive, typographical changes (for example, the addition of quotation marks around the word "haircuts"), ICC proposes to make two categories of changes to the Treasury Policy. First, ICC proposes clarifications and changes to the way it values the collateral that Clearing Participants provide to ICC to cover their margin and Guaranty Fund requirements. Second, ICC proposes adding a new section to its Treasury Policy addressing circumstances under which it would use a foreign exchange facility to convert one currency to another.

1. ICC's Collateral Valuation

In valuing collateral, ICC's currently effective Treasury Policy aims to accurately and effectively price assets posted as collateral and haircut those assets for their native market risks⁷ and related cross-currency risks.⁸ The proposed rule change would not change these overall aims, but ICC notes that it would clarify and simplify some already-existing procedures which achieve these aims.⁹ It would also change the haircut process for Great British Pounds posted as Client-Related Initial Margin to cover a Euro-denominated product requirement.

Current Valuation Process

ICC's valuation process depends on the type of collateral. Currently, ICC

⁴ Capitalized terms not otherwise defined herein have the meanings assigned to them in ICC's Clearing Rules or the Treasury Policy, as applicable.

⁵ Notice, 88 FR at 58628.

⁶ *Id.*

⁷ ICC defines native market risk as the risk of a decrease in value of the asset posted as collateral. *Id.*

⁸ ICC defines cross-currency risk as the risk of the change in value of one currency as compared to the value of another currency. *Id.*

⁹ Notice, 88 FR at 58628.

accepts US Treasuries, US Dollars ("USD"), Euros, and for client-related margin only, Great British Pounds ("GBP"). Moreover, ICC currently clears products denominated in USD and in Euros.

With respect to US Treasuries covering a USD-denominated product requirement, the currently effective Treasury Policy provides that ICC calculates the cover value as follows: accrued interest plus mid-price multiplied by principal less applicable haircut established by the ICC Risk Department.¹⁰ For US Treasuries or USD covering a Euro-denominated product requirement, ICC haircuts the USD value at the currency haircut for Euros (after first converting the US Treasuries to USD).

With respect to Euro covering a Euro-denominated product requirement, there is no haircut. With respect to Euro covering a USD-denominated product requirement, ICC first converts the Euro to the USD value and then haircuts the USD value at the Euro currency haircut established by the ICC Risk Department.

With respect to GBP covering a USD-denominated product requirement, ICC first converts the GBP to the USD value and then haircuts the USD value at the GBP currency haircut established by the ICC Risk Department. With respect to GBP covering a Euro-denominated product requirement, ICC first converts the GBP to the USD value and then haircuts the USD value at the GBP currency haircut established by the ICC Risk Department. ICC then converts the Euro-denominated product requirement to the USD value, and ICC then grosses up the resulting USD requirement by the Euro currency haircut.

Amended Valuation Process

The proposed rule change would delete much of the currency-specific language and replace it with general principles that would apply to any currency ICC accepts. In doing so, the proposed rule change would not alter the substance of the current process, except with respect to the valuation of GBP in certain circumstances, as discussed below.

The proposed rule change would delete the language described above related to collateral posted in the currency of the obligation, and replace

¹⁰ ICC's Risk Department calculates haircuts on an on-going basis. ICE Clear Credit LLC Treasury Operations Policies and Procedures. ICC describes the qualitative manner in which it derives its collateral haircuts in its Collateral Risk Management Framework. Securities Exchange Act Release No. 96557 (Dec. 21, 2022), 87 FR 79922 (Dec. 28, 2022) (File No. SR-ICC-2022-013) ("Order").

it with general language stating that posted cash collateral used to cover a specific currency obligation in the currency of the posted collateral is not subject to a haircut. Language related to collateral posted in a currency other than the currency of the obligation would also be deleted. In its place, the proposed rule change would add language stating that posted cash collateral used to cover a specific currency obligation is first converted to its value expressed in the currency of the obligation, and further haircut to capture the potential foreign exchange risk between the posted cash collateral and the currency of the obligation.

With respect to U.S. Treasuries, the proposed rule change would maintain the current language regarding cover value. As under the current Treasury Policy, ICC would determine the cover value as accrued interest plus mid-price multiplied by principal, less applicable haircut. Finally, the proposed rule change would specify that the cover value of U.S. Treasuries used to cover a specific non-USD currency obligation is computed by foreign exchange haircutting the corresponding USD-equivalent cover value, where the applicable foreign exchange haircut captures the potential foreign exchange risk between the USD cash and the currency of the obligation.

For U.S. Treasuries, USD, and Euros, this proposed change is consistent with currently effective policies. However, the proposed rule change would alter ICC's process for GBP. With respect to GBP used to cover a Euro-denominated product requirement, the proposed rule change would delete a provision requiring ICC to convert the GBP cash value to its USD value, haircut the USD value, convert the Euro-denominated product requirement to its USD value, and gross up the resulting USD requirement by the Euro currency haircut. Deleting the currently effective haircut process related to GBP used to cover a Euro-denominated product requirement and replacing it with the proposed changes makes the process more efficient by eliminating what amounts to a double haircut.¹¹

2. ICC's Use of a Foreign Exchange Facility

ICC also proposes adding a new section to its Treasury Policy titled "Non-Committed FX Facility." This section addresses circumstances under which ICC would use a foreign exchange facility to convert one currency to another. The proposed

¹¹ Notice, 88 FR at 58628; *see, infra*, note 20 and related text.

section begins by noting that ICC has access to foreign exchange facilities with various commercial counterparties. The facilities are uncommitted, which means that they do not require ICC's counterparties to provide requested currencies, but ICC still may use them to convert one currency to another for same day settlement.

The proposed section also describes circumstances under which ICC would need to convert Client-Related Initial Margin, posted by Clearing Participants in GBP, into another currency. ICC may need to convert Client-Related Initial Margin posted in GBP in the context of a default of the client that provided the GBP as margin. None of the contracts that ICC clears settles in GBP. Therefore, to the extent that margin is posted in GBP, it would need to be converted to the currency of an obligation before it is used to satisfy that obligation.

ICC proposes to state in the Policy that the circumstances where it would need to convert GBP to another currency are very narrow. The added section provides two reasons to support ICC's position. First, as mentioned above, ICC does not currently clear any contracts that are settled in GBP; thus, GBP is not required for daily settlement. Second, use of Client-Related Initial Margin in the context of a Clearing Participant default is very limited.¹² The proposed section closes by noting that if ICC needs to convert GBP collateral to either USD or Euro in the context of a Clearing Participant default, ICC would use one of its non-committed foreign exchange arrangements to do so.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act requires the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.¹³ For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act¹⁴ and Rule 17Ad-22(e)(5).¹⁵

A. Consistency With Section 17A(b)(3)(F) of the Act

Under Section 17A(b)(3)(F) of the Act, ICC's rules, among other things, must be "designed to promote the prompt and accurate clearance and settlement of

securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible . . . and, in general, to protect investors and the public interest" ¹⁶ Based on its review of the record, and for the reasons discussed below, the Commission believes that ICC's proposed rule change is consistent with Section 17A(b)(3)(F) because it helps ensure ICC can monitor its collateral and enhances ICC's ability to deal with a potential default.

ICC's proposed changes to its collateral valuation process do not change any fundamental aspects of the process, but instead serve to simplify and make more efficient the description of the process; thus, ICC's proposed changes help to ensure that the collateral valuation process is clearer and more transparent to members. As noted above, ICC's currently effective Treasury Policy aims to accurately and effectively price assets posted as collateral and haircut those assets for their native market risks and related cross-currency risks.¹⁷ ICC's proposed changes align with these aims related to collateral valuation. A number of ICC's proposed changes—for example, ICC's non-material edits to policies governing the valuation process for U.S. Treasuries posted as collateral—merely clarify and simplify pre-existing procedures related to collateral valuation. ICC's proposal to add text requiring that posted cash used to cover a specific currency obligation is first converted to its value expressed in the currency of the obligation and then haircut to capture the potential foreign exchange risk supports its stated aim to accurately price assets and haircut them for their cross-currency risks. The changes help to make the process clearer and more transparent, which would in turn facilitate the accurate valuation of ICC's financial resources and ensure that ICC is able to determine whether it needs to bolster resources available to it in order to clear and settle trades.

ICC's proposed addition of the Non-Committed FX Facility section to its Treasury Policy enhances ICC's ability to deal with a potential default. ICC proposes to add a Non-Committed FX Facility section to its Treasury Policy that notes that ICC has access to non-committed foreign exchange facilities with various commercial counterparties that may be used to convert currency, including GBP, to another currency for

same day settlement. Adding the Non-Committed FX Facility section of the Treasury Policy ensures that members have knowledge of ICC's access to non-committed foreign exchange facilities and notice of the potential for specific scenarios, such as the possibility that ICC would be unable to exchange currency using ICC's non-committed foreign exchange facilities to satisfy certain obligations. Such notice should make it easier for ICC and its Clearing Participants to manage these scenarios should they ever arise during a potential default. Therefore, the addition of the Committed FX Facility section promotes the prompt and accurate clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Commission believes, therefore, that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.¹⁸

B. Consistency With Rule 17Ad-22(e)(5)

Rule 17Ad-22(e)(5) requires ICC to "establish, implement, maintain, and enforce written policies and procedures reasonably designed to . . . limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits" ¹⁹ Based on its review of the record, and for the reasons discussed below, the Commission believes that ICC's proposed rule change is consistent with Rule 17Ad-22(e)(5) because the change to its haircut process for GBP used to cover a Euro-denominated product requirement is appropriately conservative.

ICC proposes to alter its currently effective haircut process for GBP used to cover a Euro-denominated product requirement. The currently effective haircut process requires that ICC convert the GBP cash value to its USD value and haircut the USD value at the GBP currency haircut. It also requires that the Euro-denominated product requirement be converted to its USD value. The USD value of the Euro-denominated product requirement is then grossed up by the EUR currency haircut.²⁰ ICC proposes to eliminate this

¹² For example, ICC would use a client's Client-Related Initial Margin only where that particular client has defaulted.

¹³ 15 U.S.C. 78s(b)(2)(C).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹⁵ 17 CFR 240Ad-22(e)(5).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ Notice, 88 FR at 58628.

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 17 CFR 240.17Ad-22(e)(2).

²⁰ The USD value of the Euro-denominated product requirement is grossed up by the EUR currency haircut because ICC's treasury system automatically would haircut the Euro value in the process of converting it to the USD value. Securities Exchange Act Release No. 97489 (May 11, 2023), 88 FR 31571, 31573 (May 17, 2023) (File No. SR-ICC-2023-003).

process, which is in effect is a double haircut requirement, and replace it with an approach in which the posted GBP is converted directly to the currency of the obligation and then haircut once.

ICC's proposed process would still align with its collateral valuation process, which requires that assets posted as collateral are haircut for their native market risks and cross-currency risk. The proposed process would still apply a haircut that addresses cross-currency risk, but would eliminate an extraneous haircut that, according to ICC, is a byproduct of its previous clearing system business logic.²¹ As such, the Commission believes that the proposed change is consistent with Rule 17Ad-22(e)(5) because it remains appropriately conservative.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, Section 17A(b)(3)(F) of the Act²² and Rule 17Ad-22(e)(5) thereunder.²³

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-ICC-2023-013) be, and hereby is, approved.²⁴

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98563; File No. SR-NASDAQ-2023-035]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the Hashdex Nasdaq Ethereum ETF Under Nasdaq Rule 5711(i)

September 27, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on

September 20, 2023, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the Hashdex Nasdaq Ethereum ETF under Nasdaq Rule 5711(i) ("Trust Units"). The units of the Trust are referred to herein as the "Shares."

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these 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 aspects of such statements.

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

1. Purpose

The Exchange proposes to list and trade Shares of the Hashdex Nasdaq Ethereum ETF (the "Fund") under Nasdaq Rule 5711(i),³ which governs the listing and trading of Trust Units on the Exchange.

The Fund is a series of Tidal Commodities Trust I (the "Trust"), a Delaware statutory trust.⁴ The Fund is

managed and controlled by Toroso Investments LLC ("Sponsor"). The Sponsor is registered as a commodity pool operator ("CPO") with the Commodity Futures Trading Commission ("CFTC") and is a member of the National Futures Association ("NFA").

The Fund's Investment Objective and Strategy

According to the Registration Statement, the Chicago Mercantile Exchange, Inc. ("CME") currently offers two Ether futures contracts ("Ether Futures Contracts"), one contract representing 50 ether ("ETH Contracts") and another contract representing 0.10 ether ("MET Contracts").⁵ Each ETH Contract and MET Contract settles daily to the ETH Contract volume-weighted average price ("VWAP") of all trades that occur between 2:59 p.m. and 3:00 p.m., Central Time, the settlement period, rounded to the nearest tradable tick. ETH Contracts and MET Contracts each expire on the last Friday of the contract month, and the final settlement value for each contract is based on the CME CF Ether Dollar Reference Rate ("ETHUSD_RR").⁶

ETH Contracts and MET Contracts each trade six consecutive monthly contracts plus two additional December contract months (if the 6 consecutive months include December, only one additional December contract month is listed). Because ETH Contracts and MET Contracts are exchange-listed, they allow investors to gain exposure to ether

Act provides that an "emerging growth company" may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than \$1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently submitted its Registration Statement to the Commission on a confidential basis. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

⁵ ETH Contracts began trading on the CME Globex ("Globex") trading platform on February 8, 2021 under the ticker symbol "ETH" and are cash-settled in U.S. dollars. MET Contracts began trading on the Globex trading platform on December 6, 2021 under the ticket symbol "MET" and are also cash-settled in U.S. dollars.

⁶ The ETHUSD_RR is a daily reference rate of the U.S. dollar price of one ether calculated daily as of 4:00 p.m. London time. It is calculated by the CME based on the ether trading activity on CME-specified constituent spot ether exchanges during a calculation window between 3:00 p.m. and 4:00 p.m. London time. The CME launched the ETHUSD_RR in May 2018.

²¹ Notice, 88 FR at 58628 n.5.

²² 15 U.S.C. 78q-1(b)(3)(F).

²³ 17 CFR 240.17Ad-22(e)(5).

²⁴ In approving the proposed rule change, the Commission considered the proposal's impacts on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR-NASDAQ-2012-013).

⁴ On September 8, 2023, the Trust confidentially filed a draft registration statement under the Securities Act (the "Registration Statement"). The Jumpstart Our Business Startups Act (the "JOBS Act"), enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities