

approved pursuant to Section 19(b)(2)(D)(ii) of the Exchange Act.⁵⁹ The Sponsor asserts that the Commission has no power to impose a stay pursuant to Commission Rule of Practice 431(e) after the 240th day.⁶⁰

The Commission disagrees with the Sponsor's assertions that: (1) because the Approval Order is stayed, the proposal has been deemed approved;⁶¹ and (2) the Commission has no power to stay the Approval Order after the 240th day.⁶² The Commission complied with the requirements of the statute. Section 19(b)(2)(D) of the Exchange Act requires that the Commission "issue an order" approving or disapproving the proposed rule change within 240 days. The Approval Order was issued within that period. Although orders issued by delegated authority are issued by Commission staff, they are issued with the full authority of the Commission and are signed by the Secretary's office on behalf of the Commission. Section 4A of the Exchange Act authorizes the Commission to delegate certain functions—including approval or disapproval of proposed rule changes under Section 19—to a "division of the Commission."⁶³ And the Commission's Rules of Practice make clear that "an action made pursuant to delegated authority shall have immediate effect and be deemed the action of the Commission."⁶⁴ Moreover, as the

See Hashdex Letter at 2 (citing to File Nos. SR-NASDAQ-2025-016 and SR-NYSEARCA-2024-98). The proposal under consideration by the Commission in this order relates only to the Fund, along with changes to NYSE Arca Rules 8.500-E and 5.3-E. Accordingly, proposals to list and trade similar but different funds are beyond the scope of this order.

⁵⁹ Section 19(b) of the Exchange Act requires the Commission to "issue an order" approving or disapproving a proposed rule change within, at most, 240 days of the proposed rule change's filing. *See* 15 U.S.C. 78s(b)(2)(B)(ii). If the Commission fails to issue an order within that period, the proposed rule change is deemed to have been approved. *See* 15 U.S.C. 78s(b)(2)(D).

⁶⁰ *See* 17 CFR 201.431(e). Rule 431(e) provides that upon filing with the Commission of a notice of intention to petition for review, or upon notice to the Secretary of the vote of a Commissioner that a matter be reviewed, an action made pursuant to delegated authority shall be stayed until the Commission orders otherwise. Rule 431(a) also provides that the Commission may decide to "affirm, reverse, modify, set aside or remand [the delegated action] for further proceedings." *See* 17 CFR 201.431(a).

⁶¹ *See* Grayscale Letter at 3. The Sponsor asserts that the proposal is deemed approved if the Commission fails to meet the statutory approval deadline under Section 19(b)(2)(D), regardless of reason.

⁶² *See id.* at 2–3.

⁶³ 15 U.S.C. 78d-1(a).

⁶⁴ Commission Rule of Practice 431(e), 17 CFR 201.431(e). *See also, e.g.*, Rule of Practice 430(c), 17 CFR 201.430(c) (referring to "a final order entered pursuant to [delegated authority]"); Rule of Practice 431(f), 17 CFR 201.431(f) (giving an order by

Commission has previously explained, Congress was aware of the Commission's ability to delegate authority to approve self-regulatory organization rule filings when the time restrictions in Section 19(b)(2)(D) of the Exchange Act were enacted.⁶⁵ In asserting that the Commission has no power to stay the Approval Order after 240 days, the Sponsor effectively construes Section 19(b)(2) of the Exchange Act to require the Commission's review of an order by delegated authority to be completed within those 240 days. Such construction, however, "would undermine both the specific deadlines set forth in the statute and the Commission's ability to delegate functions."⁶⁶ Nor is such a construction necessary to fulfill Congress's purpose in enacting the deadlines to "streamline" the rule filing process.⁶⁷

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Rule 431 of the Commission's Rules of Practice, that the earlier action taken by delegated authority, Securities Exchange Act Release No. 103364 (July 1, 2025), 90 FR 29923 (July 7, 2025), is set aside and, pursuant to Section 19(b)(2) of the Exchange Act, the proposed rule change (SR-NYSEARCA-2024-87), as modified by Amendment No. 1, hereby is approved.

By the Commission.

Stephanie J. Fouse,

Assistant Secretary.

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delegated authority operative effect, even when review has been sought, until a person receives actual notice that it was stayed, modified, or reversed on review.

⁶⁵ *See* Order Affirming Action by Delegated Authority and Disapproving Proposed Rule Changes Related to Connectivity and Port Fee In the Matter of the BOX Exchange LLC, Securities Exchange Act Release No. 88493 (Mar. 27, 2020), 85 FR 18617 (Apr. 2, 2020) (SR-BOX-2018-24, SR-BOX-2018-37, and SR-BOX-2019-04), at 18626.

⁶⁶ *See* Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2, Regarding the Acquisition of CHX Holdings, Inc. by North America Casino Holdings, Inc., Securities Exchange Act Release No. 82727 (Feb. 15, 2018), 83 FR 7793 (Feb. 22, 2018) (SR-CHX-2016-20), at 7799.

⁶⁷ *See id.* With rare exception, rule filings are decided, by delegated authority or otherwise, within 240 days. *See id.*

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, September 25, 2025.

PLACE: The meeting will be held via remote means and at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION:

For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: September 18, 2025.

Vanessa A. Countryman,

Secretary.

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