

April 12, 2022

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified By Amendment No. 1, to Expand the Nonstandard Expirations Pilot Program to Include P.M.-Settled S&P 500 Index Options that Expire on Tuesday or Thursday

I. Introduction

On February 8, 2022, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) 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 expand its Nonstandard Expirations Pilot Program to permit P.M.-settled S&P 500 Index (“SPX”) options that expire on Tuesday or Thursday. The proposed rule change was published for comment in the Federal Register on February 28, 2022.³ On April 6, 2022, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comment on Amendment No. 1 and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 94292 (February 22, 2022), 87 FR 11102 (“Notice”). Comments received regarding the proposal are available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2022-005/srcboe2022005.htm>.

⁴ In Amendment No. 1, the Exchange also proposes to include the following market quality data for SPXW (as defined below) and standard SPX options, over sample periods determined by the Exchange and the Commission, as part of its Annual Report (as defined below) going forward: time-weighted relative quoted spreads; relative effective spreads; and time-weighted bid and offer sizes. Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2022-005/srcboe2022005.htm>.

II. Description of the Proposal, as Modified by Amendment No. 1

Cboe Options proposes to expand its existing Nonstandard Expirations Pilot (“Pilot”).⁵ Under the terms of the current Pilot, the Exchange is permitted to list P.M.-settled options on broad-based indexes that expire on: (1) any Monday, Wednesday, or Friday (“Weekly Expirations” or “EOWs”) and (2) the last trading day of the month (“End of Month Expirations” or “EOMs”).⁶ Under the proposal, the Exchange will expand the Pilot to permit P.M.-settled SPX Weekly (“SPXW”) options that expire on Tuesday or Thursday (“Tuesday and Thursday SPXW Expirations”) as permissible Weekly Expirations under the Pilot, in addition to the SPXW options with Monday, Wednesday, and Friday expirations that the Exchange may currently list pursuant to Rule 4.13(e)(1). The Exchange states that the Pilot for Weekly Expirations will apply to Tuesday and Thursday SPXW Expirations in the same manner as it currently applies to P.M.-settled broad-based index options with Monday, Wednesday, and Friday expirations.⁷

A. Tuesday and Thursday SPXW Expirations

The Exchange’s proposed rule change will allow it to open for trading SPXW options with Tuesday and Thursday expirations to expire on any Tuesday or Thursday of the month, other than days that coincide with an EOM expiration.⁸ The maximum number of expirations

⁵ See Securities Exchange Act Release No. 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (“Pilot Approval Order”). See also Securities Exchange Act Release No. 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (permitting P.M.-settled options on broad-based indexes that expire on any Wednesday); and Securities Exchange Act Release No. 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (permitting P.M.-settled options on broad-based indexes that expire on any Monday). The Pilot is currently set to expire on May 2, 2022. See Securities Exchange Act Release No. 93459 (October 28, 2021), 86 FR 60663 (November 3, 2021).

⁶ Cboe Options Rule 4.13(e).

⁷ See Notice, *supra* note 3, 87 FR at 11102.

⁸ If the Exchange lists EOMs and Weekly Expirations as applicable in a given class, the Exchange will list an EOM instead of a Weekly Expiration that expires on the same day

that may be listed for each type of Weekly Expiration (including the proposed Tuesday and Thursday SPXW Expirations) in a given class is the same as the maximum number of expirations permitted in Rule 4.13(a)(2) for standard options on the same broad-based index (12 for SPX options).⁹ Further, under current Cboe Options Rule 4.13(e)(1), other expirations in the same class will not be counted as part of the maximum number of Weekly Expirations for an applicable broad-based index class.¹⁰

Weekly Expirations need not be for consecutive Monday, Tuesday, Wednesday, Thursday, or Friday expirations as applicable;¹¹ however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively.¹² Weekly Expirations that are first listed in a given class may expire up to four weeks from the actual listing date.¹³ Tuesday and Thursday SPXW Expirations will be treated the same as options on the same underlying index that expire on the third Friday of the expiration month, except that they will be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration.¹⁴

in the given class. See Cboe Options Rule 4.13(e)(1).

⁹ See Notice, supra note 3, 87 FR at 11102.

¹⁰ See Cboe Options Rule 4.13(e)(1).

¹¹ See proposed Cboe Options Rule 4.13(e)(1).

¹² See Cboe Options Rule 4.13(e)(1).

¹³ Id.

¹⁴ See Notice, supra note 3, 87 FR at 11102. The proposed rule change also clarifies that on the last trading day, Regular Trading Hours for expiring Weekly Expirations and EOMs are from 9:30 a.m. to 4:00 p.m. See proposed Cboe Options Rule 4.13(e)(4).

Finally, if the Exchange is not open for business on a Tuesday or Thursday, the normally Tuesday- or Thursday-expiring SPXW will expire on the previous business day.¹⁵ If two different SPXW options will expire on the same day because the Exchange is not open for business on a certain weekday, the Exchange will list only one of such SPXW options.¹⁶

B. Annual Pilot Program Report

The Exchange has previously undertaken to submit a Pilot report to the Commission at least two months prior to the expiration date of the Pilot (“Annual Report”).¹⁷ The Exchange represents that it will abide by the same reporting requirements for the trading of Tuesday and Thursday SPXW Expirations that it does for the trading of P.M.-settled options on broad-based indexes that expire on any Monday, Wednesday, or Friday pursuant to the Pilot.¹⁸ The Exchange states that it will include data regarding Tuesday and Thursday SPXW Expirations in the Annual Report that it submits to the Commission at least two months prior to the expiration date of the Pilot.¹⁹ Additionally, the Exchange represents that it will provide certain additional market quality data for SPX options²⁰ and will also provide the Commission with any additional data or

¹⁵ Id.

¹⁶ Id.

¹⁷ See Pilot Approval Order, supra note 5.

¹⁸ See Notice, supra note 3, 87 FR at 11103. See also Pilot Approval Order, supra note 5, 75 FR at 57540 (stating, “[i]n particular, the Commission notes that [the Exchange] will provide the Commission with the annual report analyzing volume and open interest of EOWs and EOMs, will also contain information and analysis of EOW and EOM trading patterns, and index price volatility and share trading activity for series that exceed minimum parameters.”).

¹⁹ See Notice, supra note 3, 87 FR at 11103.

²⁰ See Amendment No. 1, supra note 4. In particular, the Exchange proposes to include the following market quality data, over sample periods determined by the Exchange and the Commission, for SPX options (SPXW and standard SPX options) as part of the annual reports going forward: time-weighted relative quoted spreads; relative effective spreads; and time-weighted bid and offer sizes. See id.

analyses the Commission requests because it deems such data or analyses necessary to determine whether the Pilot, including the proposed Tuesday and Thursday SPXW Expirations, is consistent with the Act.²¹ As it does for current Pilot program products, the Exchange states it will make public on its website all data and analyses in connection with SPXW options with Tuesday and Thursday expirations it submits to the Commission under the Pilot.²²

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.²³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,²⁴ which requires, among other things, that a national securities exchange have rules 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.

The Commission received a comment letter in support of the Exchange's proposal.²⁵ The

²¹ See Notice, supra note 3, 87 FR at 11103.

²² Id.

²³ 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ See Letter from John Zhu, Head of Trading, Optiver US LLC, to Vanessa Countryman,

commenter states that the addition of Tuesday and Thursday SPXW Expirations would allow investors to closely tailor their hedging strategies around specific dates²⁶ and potentially reduce hedging costs,²⁷ as well as allow investors to spread risk across more trading days and account for daily changes in the markets.²⁸ The commenter also asserts that there is demand for the proposed Tuesday and Thursday SPXW Expirations, and that the proposal “will enhance the total liquidity and risk management opportunities that the US options market offers, and will further enhance the overall health of the US listed options market.”²⁹ The commenter states that it has not observed any negative impact on the market or regulatory concerns arising from SPXW options.³⁰

As the Commission noted in its orders approving the listing and trading of P.M.-settled options on the S&P 500 Index, the Commission has had concerns about the potential adverse effects and impact of P.M. settlement upon market volatility and the operation of fair and orderly markets on the underlying cash markets at or near the close of trading, including for cash-settled derivatives contracts based on a broad-based index.³¹ The potential impact today remains

Secretary, Commission, dated March 18, 2022.

²⁶ See id. at 1.

²⁷ Id.

²⁸ Id.

²⁹ Id. at 2

³⁰ Id.

³¹ See Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668, 10669 (February 14, 2013) (order approving the listing and trading of SPXPM on Cboe Options). See also Securities Exchange Act Release Nos. 64599 (June 3, 2011), 76 FR 33798, 33801-02 (June 9, 2011) (order instituting proceedings to determine whether to approve or disapprove a proposed rule change to allow the listing and trading of SPXPM options on the C2 Options Exchange, Incorporated); and 65256 (September 2, 2011), 76 FR 55969, 55970–76 (September 9, 2011) (order approving proposed rule change to establish a pilot program to list and trade SPXPM options on the C2 Options Exchange,

unclear, given the significant changes in the closing procedures of the primary markets in recent decades. The Commission is mindful of the historical experience with the impact of P.M. settlement of cash-settled index derivatives on the underlying cash markets, but recognizes that these risks may be mitigated today by the enhanced closing procedures that are now in use at the primary equity markets.

The Exchange's proposal to add Tuesday and Thursday SPXW Expirations to the existing Pilot would offer additional investment options to investors and may be useful for their investment or hedging objectives while providing the Commission with data to monitor the effects of Tuesday and Thursday SPXW Expirations and the impact of P.M. settlement on the markets. To assist the Commission in assessing any potential impact of Tuesday and Thursday SPXW options on the options markets as well as the underlying cash equities markets, the Exchange will be required to submit data to the Commission in connection with the Pilot.³² Further, including the proposed Tuesday and Thursday SPXW Expirations in the Pilot, together with the data and analysis that the Exchange will provide to the Commission, will allow Cboe Options and the Commission to monitor for and assess any potential for adverse market effects of allowing Tuesday and Thursday SPXW Expirations, including on the underlying component stocks. In particular, the data collected from the Pilot will help inform the Commission's consideration of whether the Pilot, as amended to include Tuesday and Thursday SPXW Expirations, should be modified, discontinued, extended, or permanently approved. Furthermore, the Exchange's ongoing analysis of the Pilot should help it monitor any potential risks from large P.M.-settled positions and take appropriate action if warranted.

Incorporated).

³² See Notice, supra note 3, 87 FR at 11103; Pilot Approval Order, supra note 5, 75 FR at 57540; and Amendment No. 1, supra note 4. See also supra notes 18 and 20.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2022-005 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-CBOE-2022-005. This file number should be included on the subject line if e-mail 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 (<http://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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2022-005, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the Federal Register. In Amendment No. 1, the Exchange represents that it will provide certain additional data in the Pilot Program annual reports regarding SPXW options.³³ The Exchange states that such data will assist in monitoring for any adverse market effects or regulatory concerns. Amendment No. 1 raises no novel regulatory issues and will provide additional data that will assist the Commission in evaluating the Pilot. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,³⁴ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

³³ See Amendment No. 1, supra note 4.

³⁴ 15 U.S.C. 78s(b)(2).

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,³⁵ that the proposed rule change (SR-CBOE-2022-005), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

J. Matthew DeLesDernier
Assistant Secretary

³⁵ 15 U.S.C. 78s(b)(2).

³⁶ 17 CFR 200.30-3(a)(12).