

September 15, 2022

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change to Expand the Nonstandard Expirations Pilot Program to Include P.M.-Settled Options on the Mini-S&P 500 Index that Expire on Tuesday or Thursday

I. Introduction

On July 21, 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 options on the Mini-S&P 500 Index that expire on Tuesday or Thursday. The proposed rule change was published for comment in the Federal Register on August 4, 2022.³ The Commission received no comments on the proposal. The Commission is approving the proposed rule change.

II. Description of the Proposal

Cboe Options proposes to expand its existing Nonstandard Expirations Pilot (“Pilot Program”)⁴ to permit P.M.-settled options on the Mini-S&P 500 Index (“XSP options”) that

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 95392 (July 29, 2022), 87 FR 47803 (“Notice”).

⁴ 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 November 7, 2022. See Securities Exchange Act Release No. 94800 (April 27, 2022), 87 FR 26248 (May 3, 2022).

expire on Tuesday or Thursday. Under the existing Pilot Program, the Exchange is permitted to list P.M.-settled options on broad-based indexes that expire on: (1) any Monday, Wednesday, or Friday and, with respect to options on the S&P 500 Index (“SPX options”) any Tuesday or Thursday (“Weekly Expirations” or “EOWs”) and (2) the last trading day of the month (“EOMs”).⁵ The Exchange notes that permitting XSP options with Tuesday and Thursday expirations, as proposed, would be in addition to the XSP options with Monday, Wednesday and Friday expirations that the Exchange may (and does) already list, as they are permissible Weekly Expirations for options on a broad-based index (e.g., the Mini-S&P 500 Index) pursuant to Rule 4.13(e)(1). The Exchange states that the Pilot Program for Weekly Expirations will apply to Tuesday and Thursday XSP options as it currently applies to all other P.M.-settled broad-based index options with Monday, Wednesday, and Friday expirations and to SPX options with Tuesday and Thursday expirations.⁶

A. Tuesday and Thursday XSP Options

The Exchange’s proposed rule change will allow it to open for trading XSP 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.⁷ The maximum number of expirations that may be listed for each Weekly Expiration (i.e., a Monday expiration, Tuesday expiration, Wednesday expiration, Thursday expiration, or Friday expiration, as applicable) in a given class (including

⁵ See Rule 4.13(e).

⁶ See Notice, supra note 3, 87 FR at 47804.

⁷ 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 in the given class. See Cboe Options Rule 4.13(e)(1).

XSP) 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 (which is 12 for XSP options).⁸

Weekly Expirations need not be for consecutive Monday, Tuesday, Wednesday, Thursday, or Friday expirations as applicable; however, the expiration date of a nonconsecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively.⁹ Weekly Expirations that are first listed in a given class may expire up to four weeks from the actual listing date.¹⁰ 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 in the given class. Other expirations in the same class are not counted as part of the maximum number of Weekly Expirations for an applicable broad-based index class. If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Tuesday, Wednesday, Thursday, or Friday, the normally Tuesday, Wednesday, Thursday, or Friday expiring Weekly Expirations will expire on the previous business day.¹¹ If two different Weekly Expirations on Mini-S&P 500 Index options (as is the case of S&P 500 Index options) would 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 Weekly Expirations.¹²

⁸ See Notice, supra note 3, 87 FR at 47803.

⁹ See Cboe Options Rule 4.13(e)(1).

¹⁰ Id.

¹¹ Id.

¹² See proposed Cboe Options Rule 4.13(e)(1).

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 Program (“Annual Report”).¹³ The Exchange represents that it will abide by the same reporting requirements for the trading of XSP options that expire on any Tuesday or Thursday that it does for the trading of P.M.-settled options on broad-based indexes that expire on any Monday, Wednesday, or Friday and for SPX options that expire on Tuesday or Thursday pursuant to the Pilot Program.¹⁴ The Exchange states that it will include data regarding XSP options that expire on Tuesdays or Thursdays as it does for all other Weekly Expirations in the Pilot Program annual report that it submits to the Commission at least two months prior to the expiration date of the Pilot Program.¹⁵ The Exchange also proposes to include the following market quality data, over sample periods determined by the Exchange and the Commission, for XSP options as part of the annual report, as it does for SPX options:

- time-weighted relative quoted spreads;
- relative effective spreads; and
- time-weighted bid and offer sizes.¹⁶

The Exchange also will provide the Commission with any additional data or analyses the

¹³ See Pilot Approval Order, supra note 4.

¹⁴ See Notice, supra note 3, 87 FR at 47804 - 47805. See also Pilot Approval Order, supra note 4, 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.”).

¹⁵ See Notice, supra note 3, 87 FR at 47804 - 47805.

¹⁶ See id. at 47805.

Commission requests because it deems such data or analyses necessary to determine whether the Pilot Program, including XSP options with Tuesday and Thursday expirations as proposed, is consistent with the Act.¹⁷ 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 XSP options with Tuesday and Thursday expirations it submits to the Commission under the Pilot Program.¹⁸

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change 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.¹⁹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,²⁰ 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.

As the Commission noted in its recent order approving the listing and trading of P.M.-settled options on the S&P 500 Index that expire on Tuesday or Thursday, the Commission has had concerns about the potential adverse effects and impact of P.M. settlement upon market

¹⁷ See id.

¹⁸ See id.

¹⁹ 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).

²⁰ 15 U.S.C. 78f(b)(5).

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.²¹ The potential impact today remains 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 XSP expirations to the existing Pilot Program 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 XSP expirations and the impact of P.M. settlement on the markets. To assist the Commission in assessing any potential impact of Tuesday and Thursday XSP expiration 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 Program.²² Further, including the proposed Tuesday and Thursday XSP expirations in the Pilot Program, together with the data and analysis that the Exchange will provide to the Commission, will allow the Exchange and the Commission to monitor for and assess any potential for adverse market effects of allowing Tuesday and Thursday XSP expirations, including on the underlying component stocks. In particular, the data collected from the Pilot Program will help inform the Commission's consideration of whether the Pilot Program, as amended to include Tuesday and

²¹ See Securities Exchange Act Release No. 94682 (April 12, 2022), 87 FR 22993 (April 18, 2022) (CBOE-2022-005).

²² See Notice, supra note 3, 87 FR at 47804 – 47805 and Pilot Approval Order, supra note 4, 75 FR at 57540. See also supra notes 15 - 18.

Thursday XSP expirations, should be modified, discontinued, extended, or permanently approved. Furthermore, the Exchange's ongoing analysis of the Pilot Program should help it monitor any potential risks from large P.M.-settled positions and take appropriate action if warranted.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-CBOE-2022-039) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

J. Matthew DeLesDernier,
Deputy Secretary.

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).