

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100671; File No. SR-CBOE-2024-034)

August 8, 2024

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change to List P.M.-Settled Broad-Based Index Options with Expirations on the Third Friday-of-the-Month

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 August 2, 2024, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to list P.M.-settled broad-based Index options with expirations on the Third Friday-of-the-month. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 amend its Rules to permit the listing of P.M.-settled³ options on any broad-based index eligible for standard options trading that expire on the standard third Friday-of-the-month (“Expiration Friday”). Currently, pursuant to Rule 4.13, Interpretations and Policies .13 and .14, the Exchange is permitted to list P.M.-settled options on the S&P 500 Index (“SPX options”), the Mini-S&P 500 Index (“XSP options”), and the Mini-Russell 2000 Index (“MRUT options”) that expire on Expiration Fridays. Additionally, pursuant to Rule 4.13(e), the Exchange may list P.M.-settled options on any broad-based index eligible for standard options trading that expire on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than Expiration Friday or days that coincide with an EOM Expiration (as defined below)) (“Weekly Expirations”) or that expire on the last trading day of the month (“EOM Expirations” and, combined with Weekly Expirations, “Nonstandard Expirations”). As a result, currently, the Exchange may list P.M.-settled SPX, XSP, and MRUT options with expirations on any day of the week, including all Fridays, while the Exchange may list P.M.-settled options on all other broad-based index options with expirations on any day of the week, including all Fridays except Expiration Fridays.

³ An option with P.M.-settlement has its exercise settlement value derived from the closing prices on the expiration date.

The proposed rule change would permit the Exchange to list P.M.-settled options on all broad-based index options that expire on Expiration Fridays. Specifically, the proposed rule change amends Rule 4.13, Interpretation and Policy .13 to state that in addition to A.M.-settled options on any broad-based index approved for trading on the Exchange pursuant to Rule 4.13, the Exchange may also list options on any broad-based index whose exercise settlement value is derived from closing prices on their expiration dates⁴ (“P.M.-Settled Third Friday Index Options”).⁵ The Exchange notes that permitting P.M.-Settled Third Friday Index Options for all broad-based indexes, as proposed, would be in addition to the P.M.-settled options with expirations on all Fridays other than Expiration Fridays that the Exchange may already list on those indexes as Weekly Expirations pursuant to Rule 4.13(e)(1). Current Rule 4.13, Interpretations and Policies .13 and .14 together with Rule 4.13(e)(1) permit the Exchange to list P.M.-settled SPX, XSP, and MRUT options on all Fridays (including Expiration and non-Expiration Fridays). The proposal merely expands this same ability to all other broad-based indexes eligible for A.M.-settled standard option trading.

P.M.-Settled Third Friday Index Options are subject to all provisions of Rule 4.13 and treated the same as A.M.-settled options on the same underlying index that expire on Expiration Fridays, except they are P.M.-settled. P.M.-Settled Third Friday Index Options have the same exercise style, same number of permissible expirations, same exercise interval prices and

⁴ The Exchange corrects outdated language in Rule 4.13, Interpretation and Policy .13 by updating the definition of P.M.-settled. The exercise settlement value of a P.M.-settled option is derived from closing prices on the expiration date, rather than the last trading day prior to expiration (which would have been Friday when options settled on Saturdays; however, options now settle on Fridays). This is consistent with the fact that expiring P.M.-settled options trade on their expiration dates, as set forth in Rule 5.1(b)(2)(C).

⁵ The proposed rule change also deletes Rule 4.13, Interpretation and Policy .14, as the proposed changes to Interpretation and Policy .13 make Interpretation and Policy .14 redundant and, thus, unnecessary (i.e., as the Mini-SPX Index and Mini-RUT Index are broad-based indexes, those indexes are included in the phrase “all broad-based indexes” in proposed Rule 4.13, Interpretation and Policy .13).

limitations, and same position and exercise limits, and will trade in the same minimum price increment, as A.M.-settled options on the same underlying index.

The Exchange believes expanding the availability of P.M.-Settled Third Friday Index Options to all broad-based index options (rather than having those expirations available for three broad-based indexes only) will expand hedging tools available to market participants while also providing greater trading opportunities, regardless of in which index option market they participate. By expanding the availability of P.M.-Settled Third Friday Index Options, the proposed rule change (together with currently available Weekly Expirations for all broad-based index options) will provide market participants with opportunities to purchase options on all broad-based index options available for trading on the Exchange in a manner more aligned with specific timing needs and more effectively tailor their investment and hedging strategies and manage their portfolios. In particular, the proposed rule change will allow market participants to roll their positions for additional index options on more trading days, thus with more precision, spread risk across more trading days and incorporate daily changes in the markets, which may reduce the premium cost of buying protection. The Exchange believes there is sufficient investor interest in and demand for P.M.-Settled Third Friday Index Options for broad-based index options beyond SPX, XSP, and MRUT to warrant adding these expirations for additional broad-based index options and that P.M.-Settled Third Friday Index Options will continue to provide investors with additional means of managing their risk exposures and carrying out their investment objectives. Overall, the Exchange believes that permitting the trading of P.M.-Settled Third Friday Index Options in more broad-based indexes will encourage greater trading in these index options. The Exchange believes the proposed rule change will provide opportunities for

market participants to benefit from exposure to the market for all broad-based index options with additional P.M.-settlement flexibility.

The Exchange also proposes to amend Rule 5.1, which governs trading days and hours, in conjunction with the proposed addition of P.M.-settled options on Expiration Fridays in all broad-based index options. Rule 5.1(b)(2)(C) currently provides that on their last trading day, Regular Trading Hours for expiring P.M.-settled SPX, XSP, and MRUT options, as well as Index Options with Nonstandard Expirations, may be effected on the Exchange between 9:30 a.m. and 4:00 p.m. Eastern Time⁶ (as opposed to the 9:30 a.m. to 4:15 p.m. Regular Trading Hours for options with those expirations that are non-expiring). The proposed rule change amends Rule 5.1(b)(2)(C) to include P.M.-Settled Third Friday Index Options for all broad-based indexes (and thus deletes the specific references to p.m.-settled SPX, XSP, and MRUT options, as those options are captured by the proposed defined term “P.M.-Settled Third Friday Index Options”). The primary listing markets for the component securities that comprise broad-based indexes close trading in those securities at 4:00 p.m., just as the primary listing markets for the component securities that comprise the SPX, XSP, and MRUT Indexes close trading at 4:00 p.m. The primary listing exchanges for the component securities disseminate closing prices for the component securities, which are used to calculate the exercise settlement value of broad-based indexes on which the Exchange lists options. The Exchange believes that, under normal trading circumstances, the primary listing markets have sufficient bandwidth to prevent any data queuing that may cause any trades that are executed prior to the closing time from being reported after 4:00 p.m. If trading in expiring P.M.-Settled Third Friday Index Options continued an additional fifteen minutes until 4:15 p.m. on their last trading day, expiring P.M.-Settled Third Friday Index

⁶ See Rule 1.6, which states that unless otherwise specified, all times in the Rules are Eastern Time.

Options would be trading after the settlement index value for those expiring options was calculated.⁷ Therefore, in order to mitigate potential investor confusion and the potential for increased costs to investors as a result of potential pricing divergence at the end of the trading day, the Exchange believes that it is appropriate to cease trading in the expiring P.M.-Settled Third Friday Index Options at 4:00 p.m., as it already does for expiring P.M.-settled SPX, XSP, and MRUT options that expire on Expiration Fridays and for expiring broad-based indexes with Nonstandard Expirations (which are p.m.-settled) for the same aforementioned reasons.⁸ The Exchange does not believe that the proposed rule change will impact volatility on the underlying cash market comprising broad-based indexes at the close on Expiration Fridays, as it already closes trading on the last trading day for expiring P.M.-settled options at 4:00 p.m. (such as P.M.-settled SPX, XSP, and MRUT options that expire on Expiration Fridays and broad-based index options with Nonstandard Expirations), which the Exchange does not believe has had an adverse impact on fair and orderly markets on Expiration Fridays for the underlying stocks comprising the corresponding indexes.⁹

⁷ Further, the Exchange expects that all P.M.-Settled Third Friday Index Options (as the Exchange understands is the case for P.M.-settled SPX, XSP and MRUT options that expire on Expiration Friday and all broad-based index options with Nonstandard Expirations) will typically be priced in the market based on corresponding futures values. If trading expiring P.M.-Settled Third Friday Index Options continued until 4:15 p.m. on their last trading day, expiring P.M.-Settled Third Friday Index Options could not be priced on corresponding futures values, but rather would have to be priced on the known cash value. At the same time, the prices of non-expiring P.M.-Settled Third Friday Index Options series would continue to move and likely be priced in response to changes in corresponding futures prices. As a result, a potential pricing divergence could occur between 4:00 p.m. and 4:15 p.m. on the final trading day in expiring P.M.-Settled Third Friday Index Options (e.g., a switch from pricing off of futures to cash). The Exchange understands that the switch from pricing off of futures to cash can be a difficult and risky crossover for liquidity providers. As a result, if expiring P.M.-settled contracts closed at 4:15 p.m., Market-Makers may react by widening spreads in order to compensate for the additional risk.

⁸ See Securities Exchange Act Release Nos. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR-CBOE-2012-120) (“SPXPM Pilot Approval Order”); 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR-CBOE-2013-055) (“XSPPM Pilot Approval Order”); and 91067 (February 5, 2021), 86 FR 9108 (February 11, 2021) (SR-CBOE-2020-116) (“MRUTPM Pilot Approval Order”).

⁹ See Securities Exchange Act Release Nos. 98454 (September 20, 2023), 88 FR 66103 (September 26, 2023) (SR-CBOE-2023-005) (“SPXPM Permanent Approval Order”); and 98455 (September 20, 2023), 88 FR

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it believes that the Exchange and OPRA have the necessary systems capacity to handle any potential additional traffic associated with trading of P.M.-Settled Third Friday Index Options. The Exchange does not believe that its Trading Permit Holders (“TPHs”) will experience any capacity issues as a result of this proposal and represents that it will monitor the trading volume associated with any possible additional options series listed as a result of this proposal and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange’s automated systems.

In addition to this, the Exchange believes that its existing surveillance and reporting safeguards in place are adequate to deter and detect possible manipulative behavior which might arise from listing and trading P.M.-Settled Third Friday Index Options on all broad-based index options and will support the protection of investors and the public interest. Furthermore, the trading of P.M.-Settled Third Friday Index Options will be subject to Exchange Rules governing customer accounts, position and exercise limits, margin requirements and trading halt procedures, among other Rules, which are designed to prevent fraudulent and manipulative acts and practices.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

66073 (September 26, 2023) (SR-CBOE-2023-019) (“XSPPM and MRUTPM Permanent Approval Order”).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change will 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 Exchange believes that expanding the availability of P.M.-Settled Third Friday Index Options to all broad-based index options (rather than having these expirations available for three broad-based indexes only) will provide investors with expanded hedging tools and greater trading opportunities and flexibility, regardless of in which broad-based index option market they participate. As a result, investors will have additional means for additional index options to manage their risk exposures and carry out their investment objectives. By offering expanded P.M.-Settled Third Friday Index Options along with Weekly Expirations (including expirations on Fridays other than Expiration Friday) for all broad-based index options, the proposed rule change will allow market participants to purchase options on all broad-based index options available for trading on the Exchange in a manner more aligned with specific timing needs and more effectively tailor their investment and hedging strategies and manage their portfolios. For example, the proposed rule change will allow market participants to roll their positions in more index options on more trading days, thus

¹² Id.

with more precision, spread risk across more trading days and incorporate daily changes in the markets, which may reduce the premium cost of buying protection. The Exchange represents that it believes that it has the necessary systems capacity to support any additional traffic associated with trading of options on all broad-based index options with P.M.-Settled Third Friday Index Options and does not believe that its TPHs will experience any capacity issues as a result of this proposal.

The Commission previously recognized that listing P.M.-Settled Third Friday Index Options for SPX, XSP, and MRUT options was consistent with the Act.¹³ The Commission noted that P.M.-Settled Third Friday Index Options in these index options “has benefitted investors and other market participants by providing more flexible trading and hedging opportunities while also having no disruptive impact on the market.”¹⁴ The proposed rule change is consistent with these findings, as it will benefit investors and other market participants that participate in the markets for broad-based index options other than SPX, XSP, and MRUT options in the same manner as SPX, XSP, and MRUT options that expire on Expiration Fridays do by providing investors with more flexible trading and hedging opportunities in these additional index options. Additionally, the Exchange does not believe listing of P.M.-settled options that expire on Expiration Fridays on additional broad-based indexes will have any significant economic impact on the underlying component securities surrounding the close as a result of expiring p.m.-settled options or impact market quality, based on the data provided to

¹³ See SPXPM, XSPPM, and MRUTPM Pilot Approval Orders (the Exchange initially listed P.M.-Settled Third Friday SPX, XSP, and MRUT Options pursuant to pilot programs, so the Commission could monitor the impact of P.M. settlement of cash-settled index derivatives on the underlying cash markets (while recognizing that these risks may have been mitigated given enhanced closing procedures in use in the primary equity markets); and SPXPM, XSPPM, and MRUTPM Permanent Approval Orders.

¹⁴ See SPXPM Permanent Approval Order at 66106; and XSPPM and MRUTPM Permanent Approval Order at 66076 (citing data the Commission reviewed in connection with the pilot programs).

and reviewed by the Commission (and the Commission's own conclusions based on that review, as noted above) and due to the significant changes in closing procedures in the decades since index options moved to a.m.-settlement.¹⁵

In addition, the Exchange believes that the proposal to end trading at 4:00 p.m. on the last trading day for transactions in expiring P.M.-Settled Third Friday Index Options will prevent continued trading on a product after the exercise settlement value has been fixed, thereby mitigating potential investor confusion and the potential for increased costs to investors as a result of potential pricing divergence at the end of the trading day.

Finally, the proposed rule change to correct the definition of p.m.-settled in Rule 4.13, Interpretation and Policy .13 will benefit investors, as it will mitigate potential confusion of having an outdated definition in the Exchange's Rules. This proposed rule change will have no impact on trading, as the proposed definition of p.m.-settled is consistent with how p.m.-settled options currently settle.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. 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 because P.M.-Settled Third Friday Index Options in all broad-based indexes will be available to all market participants. By permitting P.M.-settled options that expire on Expiration Fridays in additional broad-based indexes, the proposed rule change will provide all investors that participate in the markets for options on more broad-based indexes (in addition to SPX, XSP,

¹⁵ See id.

and MRUT options) available for trading on the Exchange with greater trading and hedging opportunities and flexibility to meet their investment and hedging needs, which are already available for SPX, XSP, and MRUT options. Additionally, P.M.-Settled Third Friday Index Options will trade in the same manner as A.M.-settled options on the same indexes. Further, the proposed 4:00 p.m. closing time on Expiration Fridays will apply equally to all market participants trading in P.M.-Settled Third Friday Index Options.

The Exchange does not believe that the proposal to list P.M.-Settled Third Friday Index Options in all broad-based indexes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because these options are proprietary Exchange products. Other exchanges offer P.M.-settlement on Expiration Fridays for other broad-based index options.¹⁶ Additionally, options on equity options (including options on certain exchange-traded funds (“ETFs”) that track broad-based indexes on which the Exchange lists options) are P.M.-settled, and exchanges offer short-term options programs for certain equity options,¹⁷ making options on certain ETFs that track broad-based indexes on which the Exchange lists options available with expirations on all Fridays. To the extent that the addition of P.M.-Settled Third Friday Index Options on additional broad-based indexes available for trading on the Exchange makes the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange.

¹⁶ See, e.g., Nasdaq PHLX, LLC Options 4A, Section 12(a)(6) (permitting P.M.-settlement for options on the Nasdaq-100 and Nasdaq-100 Micro Indexes that expire on Expiration Fridays).

¹⁷ See, e.g., Nasdaq PHLX, LLC Options 4A, Section 12 (permitting nonstandard expirations, including expirations on Tuesdays and Thursdays, for Nasdaq-100 index options and Nasdaq 100-Micro index options); and Nasdaq ISE, LLC Options 4, Section 5, Supplementary Material .03 (permitting short-term options series with daily expirations for SPY and QQQ options). [update] [sic]

The Exchange does not believe the proposed rule change to correct the definition of p.m.-settled in Rule 4.13, Interpretation and Policy .13 will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it is not a competitive change. This proposed change merely updates an outdated definition in the Exchange's Rules and will have no impact on trading, as the proposed definition of p.m.-settled is consistent with how p.m.-settled options currently settle.

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

The Exchange neither solicited nor received written comments on 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 Exchange consents, the Commission will:

- A. by order approve or disapprove such 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-CBOE-2024-034 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-2024-034. 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-CBOE-2024-034 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.¹⁸

Sherry R. Haywood,
Assistant Secretary.

¹⁸ 17 CFR 200.30-3(a)(12).