

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-101021; File No. SR-CBOE-2024-040)

September 13, 2024

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Short Term Option Series Program in Rule 4.5(d)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 6, 2024, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 amend the Short Term Option Series Program in Rule 4.5(d). 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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 amend the Short Term Option Series Program in Rule 4.5(d) (Series of Options Contracts Open for Trading). Specifically, the Exchange proposes to expand the Short Term Option Series Program to permit the listing of two Monday expirations for options on SPDR Gold Shares (“GLD”), iShares Silver Trust (“SLV”), and iShares 20+ Year Treasury Bond ETF (“TLT”) (collectively “Exchange Traded Products” or “ETPs”).<sup>5</sup> This is a competitive filing that is based on a proposal submitted by Nasdaq ISE, LLC (“Nasdaq ISE”) and recently approved by the Commission.<sup>6</sup>

Currently, as set forth in Rule 4.5(d), after an option class has been approved for listing and trading on the Exchange as a Short Term Option Series, the Exchange may open for trading on any

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<sup>5</sup> Today, the Exchange permits the listing of two Wednesday expirations for options on United States Oil Fund, LP (“USO”), United States Natural Gas Fund, LP (“UNG”), GLD, SLV, and TLT. See Securities Exchange Act Release No. 99035 (November 29, 2023), 88 FR 84367 (December 5, 2023) (SR-CBOE-2023-062) (“Wednesday Notice”). The Exchange began listing Wednesday expirations on these five symbols on November 21, 2023. See Options Exchange Notice, Reference ID: C2023111702.

<sup>6</sup> See Securities Exchange Act Release No. 100837 (August 27, 2024) (SR-ISE-2024-21) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Adopt Rules to Permit the Listing of Two Monday Expirations for Options on SPDR Gold Shares, iShares Silver Trust, and iShares 20+ Year Treasury Bond ETF) (“Nasdaq ISE Approval”).

Thursday or Friday that is a business day (“Short Term Option Opening Date”) series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Friday Short Term Option Expiration Dates”). The Exchange may have no more than a total of five Short Term Option Expiration Dates. Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of Rule 4.5(d) that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire (“Short Term Option Daily Expirations”).<sup>7</sup> For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations, as applicable, at one time.

### *Proposal*

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on GLD, SLV, and TLT expiring on Mondays. The Exchange proposes to permit two Short Term Option Expiration Dates beyond the current week for each

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<sup>7</sup> As set forth in Table 1, the Exchange currently only permits Wednesday expirations for USO, UNG, GLD, SLV, and TLT.

Monday expiration at one time, and would update Table 1 in Rule 4.5(d) for each of those symbols accordingly.

The proposed Monday GLD, SLV, and TLT expirations will be similar to the current Monday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in Rule 4.5(d), such that the Exchange may open for trading on any Friday or Monday that is a business day (beyond the current week) series of options on GLD, SLV, and TLT to expire on any Monday of the month that is a business day and is not a Monday in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, provided that Monday expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration (“Monday GLD Expirations,” “Monday SLV Expirations,” and “Monday TLT Expirations”) (collectively, “Monday ETP Expirations”).<sup>8</sup> In the event Short Term Option Daily Expirations expire on a Monday and that Monday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week’s listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The interval between strike prices for the proposed Monday ETP Expirations will be the same as those currently applicable for SPY, QQQ, and IWM Monday expirations in the Short Term Option Series Program.<sup>9</sup> Specifically, the Monday ETP Expirations will have a strike interval of (i) \$0.50 or greater for strike prices below \$100, and \$1 or greater for strike prices between \$100 and \$150 for all

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<sup>8</sup> Today, USO, UNG, GLD, SLV, and TLT may trade on Wednesdays. See id. They may also trade on Fridays, as is the case for all options series in the Short Term Option Series Program.

<sup>9</sup> See Rule 4.5(d)(5).

option classes that participate in the Short Term Option Series Program, (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program, or (iii) \$2.50 or greater for strike prices above \$150.<sup>10</sup> As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Monday ETP Expirations series will be P.M.-settled.

Pursuant to Rule 4.5(d), with respect to the Short Term Option Series Program, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.<sup>11</sup> The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.<sup>12</sup> With the proposed changes, this thirty (30) series restriction would apply to Monday GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Monday ETP Expirations.

With this proposal, Monday ETP Expirations would be treated similarly to existing Monday SPY, QQQ, and IWM Expirations. With respect to standard expiration option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which standard expiration option series on the same class expire.<sup>13</sup> Not listing Short Term Option Daily Expirations for one

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<sup>10</sup> Id.

<sup>11</sup> See Rule 4.5(d)(1).

<sup>12</sup> See Rule 4.5(d)(1).

<sup>13</sup> See Rule 4.5(d)(2).

week every month because there was a standard options series on that same class on the Friday of that week would create investor confusion.

Further, as with Monday SPY, QQQ, and IWM Expirations, the Exchange would not permit Monday ETP Expirations to expire on a business day in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire.<sup>14</sup> Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a standard expiration option series, Monthly Options Series, a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Monday ETP Expirations. The Exchange currently trades P.M.- settled Short Term Option Series that expire Monday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. In addition, the Exchange has not experienced any market disruptions or issues with capacity in expanding the five ETPs to the Wednesday expirations.<sup>15</sup> Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday for SPY, QQQ and IWM. Further, the Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday ETP Expirations.

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<sup>14</sup> See Rule 4.5(d).

<sup>15</sup> Today, the Exchange permits the listing of two Wednesday expirations for options on USO, UNG, GLD, SLV, and TLT. See Wednesday Notice. The Exchange began listing Wednesday expirations on these five symbols on November 21, 2023. See Options Exchange Notice, Reference ID: C2023111702.

Because the Exchange proposes to limit the number of Monday Expirations for options on GLD, SLV, and TLT to two expirations beyond the current week, the Exchange believes that the addition of these Monday ETP Expirations should encourage Market-Makers to continue to deploy capital more efficiently and improve displayed market quality. Similar to SPY, QQQ and IWM Monday Expirations, the introduction of Monday ETP Expirations will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to hedge their portfolios with options on commodities (gold and silver) as well as treasury securities, and tailor their investment and hedging needs more effectively.

## 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.<sup>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</sup> requirements that the rules of an exchange be 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>18</sup>

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<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> Id.

requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Similar to Monday expirations in SPY, QQQ, and IWM, the proposal to permit Monday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure. The Exchange believes that there is general demand for alternative expirations in these symbols.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Monday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, and TLT given that it will be limited to two Monday expirations beyond the current week.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Monday ETP Expirations by limiting the addition of two Monday expirations beyond the current week. The addition of Monday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers to continue to deploy capital more efficiently and improve displayed market quality. The Exchange believes that the proposal will allow TPHs to expand hedging tools and tailor their



investment and hedging needs more effectively in GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes. The ETPs currently trade within “complexes” where, in addition to the underlying security, there are multiple instruments available for hedging. Given the multi-asset class nature of these products and available hedges in highly correlated instruments, the Exchange believes that its proposal to add Monday expirations on these products will provide market participants with additional useful hedging tools for the underlying asset classes.

Similar to Monday SPY, QQQ, and IWM expirations, the introduction of Monday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Monday SPY, QQQ, and IWM Expirations.<sup>19</sup>

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Monday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging.

There are no material differences in the treatment of Monday SPY, QQQ and IWM expirations compared to the proposed Monday ETP Expirations. Given the similarities between Monday SPY, QQQ and IWM expirations and the proposed Monday ETP Expirations, the

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<sup>19</sup> See Rule 4.5(d).

Exchange believes that applying the provisions in Rule 4.5(d) that currently apply to Monday SPY, QQQ and IWM expirations is justified. For example, the Exchange believes that allowing Monday ETP Expirations and monthly ETP expirations in the same week will benefit investors and minimize investor confusion by providing Monday ETP Expirations in a continuous and uniform manner.

Finally, the Exchange notes the proposed rule change is substantively the same as a rule change proposed by ISE, which the Commission recently approved.<sup>20</sup>

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.

While the proposal will expand the Short Term Options Expirations to allow Monday ETP Expirations to be listed on the Exchange, the Exchange believes that this limited expansion for Monday expirations for options on GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that TPHs will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in GLD, SLV, and TLT.

Similar to Monday SPY, QQQ and IWM expirations, the introduction of Monday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

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<sup>20</sup> See Nasdaq ISE Approval.

The Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Monday ETP Expirations. As noted above, the Commission recently approved a substantively identical proposal of another exchange.<sup>21</sup> Further, the Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal.

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>22</sup> and Rule 19b-4(f)(6) thereunder.<sup>23</sup> Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>24</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>25</sup>

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<sup>21</sup> See Nasdaq ISE Approval.

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>25</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>26</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>27</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a filing submitted by Nasdaq ISE that was recently approved by the Commission.<sup>28</sup> The Exchange has stated that waiver of the 30-day operative delay would allow the Exchange to implement the proposal at the same time as its competitor exchanges, thus creating competition among Short Term Option Series throughout the industry. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.<sup>29</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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<sup>26</sup> 17 CFR 240.19b-4(f)(6).

<sup>27</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>28</sup> See supra note **Error! Bookmark not defined.**

<sup>29</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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](mailto:rule-comments@sec.gov). Please include file number SR-CBOE-2024-040 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-2024-040. 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-2024-040 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.<sup>30</sup>

**Vanessa A. Countryman,**

*Secretary.*

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<sup>30</sup> 17 CFR 200.30-3(a)(12), (59).