

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-90749; File No. SR-CBOE-2020-116)

December 21, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Add Options on the Mini-Russell 2000 Index (“Mini-RUT” or “MRUT”) to its P.M. Pilot Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 18, 2020, 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 add options on the Mini-Russell 2000 Index (“Mini-RUT” or “MRUT”) to its P.M. Pilot Program. 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 purpose of this proposed rule change is to amend the Exchange’s pilot program for P.M.-settled options on standard third-Friday-of-the-month (“Expiration Friday”) in connection with the Exchange’s plans to list and trade MRUT options.³ MRUT options are options on the Mini-RUT Index, the value of which is 1/10th the value of the Russell 2000 (“RUT”) Index. Currently, the Exchange has in place a pilot program under Interpretation and Policy .13 to Rule 4.13 that allows the Exchange to list Mini-SPX (“XSP”) options⁴ that expire on Expiration Friday, for which the exercise settlement value is based on the index value derived from the closing prices of the component (i.e., P.M.-settled) (the “P.M. Pilot Program”).⁵ The Exchange proposes to add Mini-RUT options to the existing P.M. Pilot Program and to permit it to list P.M.-settled Mini-RUT options, for which the exercise settlement value will be based on the

³ The Exchange plans to, simultaneously with this proposal, submit a proposal to list and trade Mini-RUT options on the Exchange. The Exchange plans to list Mini-RUT options as part of the Nonstandard Expiration Pilot Program and as a Quarterly Index Expiration (“QIX”) option. The Exchange intends to list and trade Mini-RUT options at the end of January 2021. The Exchange notes that trading in P.M.-settled MRUT options will operate in the same manner as provided in the proposal to list and trade Mini-RUT options on the Exchange. That is, P.M.-settled MRUT options will have the same European-style exercise, same number of permissible expirations, same exercise interval prices and limitations, same position and exercise limits, and will trade in the same minimum price increment.

⁴ As well as SPX options (“SPXPM”).

⁵ See Interpretation and Policy .13 to Rule 4.13.

index value derived from the closing prices of the on the last trading day prior to expiration, on a pilot basis (currently set to expire on May 3, 2021).⁶ The Exchange notes that, like proposed MRUT options, XSP options are reduced-value options (1/10th) compared to SPX options that offer individual investors lower cost options to obtain the potential benefits of options on a broad-based index (the S&P 500 Index), and are likewise designed to provide options overlying the higher-valued SPX Index more readily available as an investing tool and at more affordable prices for the average retail investor. Therefore, the Exchange believes that because both mini-index options are intended for the same investor-base, providing the same P.M.-settlement opportunities for both XSP and MRUT options is appropriate. The Exchange believes permitting the trading of MRUT options on a P.M.-settled basis will encourage greater trading in MRUT options once listed and traded on the Exchange.⁷

The Exchange proposes to abide by the same reporting requirements for the trading of P.M.-settled MRUT options that it does for the trading of P.M.-settled XSP options.⁸ The Exchange proposes to include data regarding P.M.-settled MRUT options as it does for P.M.-settled XSP options in the pilot program report that it submits to the Commission at least two months prior to the expiration date of the P.M. Pilot Program (the “annual report”).⁹ Specifically,

⁶ The proposed rule change also makes a nonsubstantive update to Interpretation and Policy .13 to Rule 4.13 by adding a reference to the defined term “SPX” after S&P 500 Stock Index and using that defined term within the provision in order to provide greater clarity and consistency with the language throughout Interpretation and Policy .13 to Rule 4.13.

⁷ See supra note 3.

⁸ See Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR-CBOE-2013-055) (the “P.M.-settled XSP Approval Order”). The reporting requirements are also the same for SPXPM. See Securities and Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR-CBOE-2012-120) (the “SPXPM Approval Order”).

⁹ See P.M.-settled XSP Approval Order.

the Exchange submits annual reports to the Commission that contain an analysis of volume, open interest, and trading patterns in connection with products in the P.M. Pilot Program. The analysis examines trading in products in the P.M. Pilot Program, as well as trading in the securities that comprise the underlying index. Additionally, for series that exceed certain minimum open interest parameters, the annual reports provide analysis of index price volatility and share trading activity.

Going forward, the Exchange will include the same analysis of P.M.-settled MRUT options, as well as trading in securities that comprise the RUT Index (as MRUT options are based on 1/10th the value of the RUT Index), in the annual reports. Also, like it currently does for P.M.-settled XSP options, the Exchange will submit periodic interim reports for P.M.-settled MRUT options that contain some, but not all, of the information contained in the annual reports.

The pilot reports will both contain the following volume and open interest data:

- (1) monthly volume aggregated for all trades;
- (2) monthly volume aggregated by expiration date;
- (3) monthly volume for each individual series;
- (4) month-end open interest aggregated for all series;
- (5) month-end open interest for all series aggregated by expiration date; and
- (6) month-end open interest for each individual series.

The annual reports will also contain the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled, RUT index options traded on Cboe Options, as well as the following analysis of trading patterns in P.M.-settled MRUT options series in the Pilot Program:

- (1) a time series analysis of open interest; and
- (2) an analysis of the distribution of trade sizes.

Finally, for series that exceed certain minimum parameters, the annual reports will contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays:

(1) a comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data includes a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the Cboe Volatility Index (VIX), is provided; and

(2) a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. The data includes a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods are determined by the Exchange and the Commission. In proposing to add MRUT options to the P.M. Pilot Program, the Exchange will abide by the reporting requirements described herein, the same reporting requirements described in the P.M.-settled XSP Approval Order.¹⁰ Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the P.M. Pilot Program, including P.M.-settled MRUT options as proposed, is consistent with the Exchange Act. As it does for current P.M. Pilot products, the Exchange will make public any data and analyses in

¹⁰ See also SPXPM Approval Order.

connection with P.M.-settled MRUT options it submits to the Commission under the Pilot Program.¹¹

Overall, the Exchange believes that permitting the trading of MRUT options on a P.M.-settled basis will encourage greater trading in MRUT options. The Exchange anticipates high customer demand for P.M.-settled MRUT options as they will provide market participants, particularly smaller-sized investors and retail customers, an opportunity to benefit from exposure to the broad-based RUT Index market with a manageably sized contract that has the flexibility of a P.M.-settlement.

Additionally, the Exchange proposes to amend Rule 5.1, which governs trading days and hours, in conjunction with the proposed addition of MRUT options to the P.M.-settled Pilot Program. Rule 5.1(b)(2)(C) currently provides that on their last trading day, Regular Trading Hours for P.M.-settled XSP options¹² may be effected on the Exchange between 9:30 a.m. and 4:00 p.m. Eastern Time¹³ (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 MRUT options. The Exchange expects that MRUT options, like SPX, XSP and RUT options (with Nonstandard Expirations, i.e., P.M.-settled Weekly and End of Month (“EOM”) RUT options)¹⁴, will typically be priced in the market based on corresponding futures values. The primary listing markets for the component securities that

¹¹ P.M. Pilot products data and analyses are made available at <https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/pm-settlement-spxpm-data>.

¹² This same rule will apply to MRUT options with Nonstandard Expirations and QIXs, as proposed in the rule filing to list and trade MRUT options.

¹³ See Rule 1.6, which states that unless otherwise specified, all times in the Rules are Eastern Time.

¹⁴ See Rule 4.13(e).

comprise the RUT Index (and thus, Mini-RUT Index) close trading in those securities at 4:00 p.m., just as the primary listing markets for the component securities that comprise the SPX Index (on which SPX and XSP options are based) 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 the RUT Index. 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 MRUT options continued an additional fifteen minutes until 4:15 p.m. on their last trading day, expiring MRUT 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 MRUT 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 MRUT 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. Therefore, in order to mitigate potential investor confusion and the potential for increased costs to investors, the Exchange believes that it is appropriate to cease trading in the expiring P.M.-settled MRUT options at 4:00 p.m., as it already does for expiring P.M.-settled XSP options and RUT options with Nonstandard Expirations for the same aforementioned reasons.¹⁵ The Exchange does not believe

¹⁵ See Securities Exchange Act Release No. 69638 (May 24, 2013), 78 FR 32524 (May 30,

that the proposed rule change will impact volatility on the underlying cash market comprising the RUT Index 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 XSP options and P.M.-settled Weekly and EOM RUT options), 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.¹⁶

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 MRUT 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.

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.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements

2013) (SR-CBOE-2013-055); and P.M.-settled XSP Approval Order.

¹⁶ See Securities Exchange Act Release No. 90263 (October 23, 2020), 85 FR 68611 (October 29, 2020) (SR-CBOE-2020-100).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

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)¹⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange does not believe that the addition of MRUT options to the P.M. Pilot Program will raise any prohibitive regulatory concerns, nor adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the RUT Index. The Exchange has not experienced any meaningful regulatory concerns, nor adverse impact on fair and orderly markets, in connection with the P.M. Pilot Program that has permitted trading of P.M.-settled XSP since 2013, which have a similar purpose and likely similar investor base as MRUT options.²⁰ Additionally, the proposed rule change will provide investors with an opportunity to trade MRUT options with a P.M.-settlement feature on the Exchange subject to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading these products in the over-the-counter market. Investors will benefit from the opportunity to trade in association with this product on Expiration Fridays. Indeed, market

¹⁹ Id.

²⁰ Trading in SPXPM has been permitted since 2013, as well. The Exchange notes too that for roughly five years (1987 to 1992) it listed and traded an A.M.-settled S&P 500 index option (called NSX) at the same time it listed and traded a P.M.-settled S&P 500 index option (called SPX) and did not observe any market disruptions as a result of offering both products.

participants, particularly smaller-sized investors and retail customers, will benefit from exposure to the broad-based RUT Index market with a manageably sized contract that has the flexibility of a PM-settlement, thereby removing impediments to a free and open market consistent with the Act.

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 MRUT 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. Given the significant changes in the closing procedures of the primary markets in recent decades, the Exchange does not believe that the proposed P.M.-settled MRUT options and 4:00 p.m. closing time on Expiration Fridays will adversely impact the maintenance of a fair and orderly market or the protection of investors because the risks of potential impact of P.M.-, cash-settled index derivatives on the underlying cash markets are greatly reduced today by the enhanced closing procedures currently in place at the primary equity markets. The Exchange notes also that it will include analysis in connection with P.M.-settled MRUT options, in the same manner that it currently does for other P.M.-settled options, in the pilot reports it submits to the Commission, and will provide the Commission with any additional data or analyses the it may request because it deems such data or analyses necessary to determine whether the Pilot Program, including P.M.-settled MRUT options as proposed, is consistent with the Exchange Act. The Exchange represents that it believes that it has the necessary systems capacity to support any additional traffic associated with trading of P.M.-settled MRUT and does not believe that its TPHs will experience any capacity issues as a result of this proposal. The Exchange will monitor the trading volume associated with any

possible additional options series listed and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.

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 MRUT options will be available to all market participants and the proposed 4:00 p.m. closing time on Expiration Fridays will apply equally to all market participants trading in MRUT options.

The Exchange does not believe that the proposal to list and trade options on the Mini-RUT Index, and the proposed rules governing the trading of MRUT options on the Exchange, will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because options on the RUT Index, including reduced-value options as proposed, are proprietary Exchange products. To the extent that the advent of P.M.-settled MRUT options trading on the Exchange may make 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. As stated above, the listing and trading of P.M.-settled MRUT options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading these products in the over-the-counter market.

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

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-116 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-2020-116. 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-2020-116, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

J. Matthew DeLesDernier
Assistant Secretary

²¹ 17 CFR 200.30-3(a)(12).