

exchanges and to attract order flow. The Exchange believes the electronic Non-Auction Transactions fee structure, including the proposed change, will remain competitive with other options exchanges and will continue to assess lower Public Customer taker fees than several other exchanges.<sup>16</sup>

The Exchange believes the proposed changes to Tier 4 and the addition of Tier 5 in Section IV.A.1 will not impose a burden on competition among various BOX Participants. The Exchange believes that the proposed changes will result in Public Customers being rebated appropriately for their transactions. The Exchange believes further that the proposed rebates will continue to attract Public Customer order flow to the BOX, which will ultimately benefit all Participants trading on BOX.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee or rebate changes in this market may impose any burden on competition is extremely limited. The Exchange notes that other exchanges provide programs to incentivize customer order flow and that the proposed changes to the volume thresholds remain competitive when compared to incentive structures at other exchanges.<sup>17</sup> For the reasons described above, the Exchange believes that the proposed rule change will encourage intermarket competition.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Exchange Act<sup>18</sup> and Rule 19b-4(f)(2) thereunder.<sup>19</sup>

because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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](mailto:rule-comments@sec.gov). Please include file number SR-BOX-2023-25 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-BOX-2023-25. 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-BOX-2023-25 and should be submitted on or before December 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Sherry R. Haywood,**  
*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-98915; File No. SR-CBOE-2023-049]**

### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change To Adopt Monthly Options Series**

November 13, 2023.

#### **I. Introduction**

On September 27, 2023, 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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its rules to accommodate the listing of option series that would expire at the close of business on the last business day of a calendar month ("Monthly Option Series").<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on October 4, 2023.<sup>4</sup> The Commission did not receive any comment letters and is approving the proposed rule change.

#### **II. Description of the Proposal**

Cboe Options proposes to amend its rules to adopt the listing and trading of Monthly Options Series. The proposed rule change will allow Cboe Options to open for trading Monthly Option Series that would expire at the close of business on the last business day of a calendar month.<sup>4</sup> The Exchange may list

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 98593 (September 28, 2023), 88 FR 68833 ("Notice").

<sup>4</sup> The Exchange also proposes to make a nonsubstantive change to Rules 4.5(d) and 4.13(a)(2)(A) to change current references to "monthly options series" to "standard expiration

<sup>16</sup> See *supra* note 7.

<sup>17</sup> See *supra* note 8.

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>19</sup> 17 CFR 240.19b-4(f)(2).

Monthly Option Series for up to five currently listed option classes that are either index options or options on exchange-traded funds (“ETFs”).<sup>5</sup> In addition, the Exchange may also list Monthly Option Series on any options classes that are selected by other securities exchanges that employ a similar program under their respective rules. The Exchange may list 12 expirations for Monthly Option Series. Monthly Option Series need not be for consecutive months; 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.<sup>6</sup> Other expirations in the same class are not counted as part of the maximum numbers of Monthly Option Series expirations for a class.<sup>7</sup> Monthly Options Series will be p.m.-settled.<sup>8</sup>

The strike price of each Monthly Options Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index or price of the underlying security at about the time that a Monthly Options Series is opened for trading on the Exchange.<sup>9</sup> The Exchange will list strike prices for Monthly Options Series that

options series” (*i.e.*, series that expire on the third Friday of a month), to eliminate potential confusion. The current references to “monthly options series” in those rules are intended to refer to those series that expire on the third Friday of a month, which are generally referred to in the industry as standard expirations.

<sup>5</sup> The Exchange proposes to amend Rule 4.5(a) and (b) to provide that proposed Rule 4.5(g) will describe how the Exchange will fix a specific expiration date and exercise price for Monthly Option Series and that proposed Rule 4.5(g) will govern the procedures for opening Monthly Options Series, respectively.

<sup>6</sup> The Exchange notes this provision considers consecutive monthly listings. For example, if it is January 2024 and the Exchange lists Quarterly Options Series in class ABC with expirations in March, June, September, December, and the following March, the Exchange could also list Monthly Options Series in class ABC with expirations in January, February, April, May, July, August, October, and November 2024 and January and February of 2025. *See Notice, supra* note 3 at 68834.

<sup>7</sup> *See* proposed Rules 4.5(g)(2) and 4.13(a)(2)(C)(ii).

<sup>8</sup> *See* proposed Rule 4.5(g)(3) and 4.13(a)(2)(C)(iii).

<sup>9</sup> *See* proposed Rules 4.5(g)(4) and 4.13(a)(2)(C)(iv). The Exchange notes these proposed provisions are consistent with the initial series provision for the Quarterly Options Series program in Rule 4.13(a)(2)(B)(iv). While different than the initial strike listing provision for the Quarterly Options Series program in current Rule 4.5(e)(4), the Exchange believes the proposed provision is appropriate, as it contemplates classes that may have strike intervals of \$5 or greater. *See Notice, supra* note 3 at 68834. For consistency, the Exchange also proposes to amend Rule 4.5(e)(4) to incorporate the same provision for initial series.

are reasonably related to the current price of the underlying security or current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange.<sup>10</sup>

Monthly Option Series cannot expire in the same week as a standard expiration series (which expire on the third Friday of a month) in the same class expires. The same, however, is not the case with regards to Short Term Options Series or Quarterly Options Series. In order to account for this, the Exchange proposes to amend Rules 4.5(d) and 4.13(a)(2)(A) to provide that the Exchange will not list a Short Term Options Series in a class on a date on which a Monthly Options Series or Quarterly Options Series expires. Similarly, proposed Rules 4.5(g)(2) and 4.13(a)(2)(C)(ii) provide that no Monthly Options Series may expire on a date that coincides with an expiration date of a Quarterly Options Series in the same index or ETF class. In other words, the Exchange will not list a Short Term Options Series on an index or ETF if a Monthly Options Series on that index or ETF were to expire on the same date, nor will the Exchange list a Monthly Options Series on an ETF or index if a Quarterly Options Series on that index or ETF were to expire on the same date to prevent the listing of series with concurrent expirations.<sup>11</sup>

With respect to Monthly Options Series added pursuant to proposed Rules 4.5(g)(1) through (6) and 4.13(a)(2)(C)(i) through (iv), the Exchange will, on a monthly basis, review series that are outside a range of five strikes above and five strikes below the current price of the underlying index or security, and delist series with no open interest in both the put and the call series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call

<sup>10</sup> The term “reasonably related to the current price of the underlying security or index value of the underlying index” means that the exercise price is within 30% of the current underlying security price or index value. *See* proposed Rules 4.5(g)(4) and 4.13(a)(2)(C)(iv).

<sup>11</sup> The Exchange notes this would not prevent the Exchange from listing a p.m.-settled Monthly Options Series on an index with the same expiration date as an p.m.-settled Short Term Options Series on the same index, both of which may expire on a Friday. In other words, the Exchange may list a p.m.-settled Monthly Options Series on an index concurrent with an a.m.-settled Short Term Options Series on that index. This could not occur with respect to ETFs, as all Short Term Options Series on ETFs are p.m.-settled. *See Notice, supra* note 3 at 68834.

series for a given expiration month.<sup>12</sup> In connection with this delisting policy, if the Exchange identifies series for delisting, the Exchange will notify other options exchanges with similar delisting policies regarding eligible series for delisting and will work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Monthly Options Series.<sup>13</sup> The Exchange also proposes to amend Rules 8.30 through 8.34 to provide that positions in Monthly Options Series will be aggregated with positions in options contracts on the same underlying security or index.<sup>14</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>15</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>16</sup> which requires, among other things, that the Exchange’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

In support of its proposal, the Exchange states the proposed monthly expirations will allow market

<sup>12</sup> Notwithstanding this delisting policy, customer requests to add strikes and/or maintain strikes in Monthly Options Series in series eligible for delisting will be granted. *See Notice, supra* note 3 at 68834.

<sup>13</sup> *See* proposed Rules 4.5(g)(7) and 4.13(a)(2)(C)(vii). Pursuant to Rule 8.42, exercise limits for impacted index and ETF classes would be equal to the applicable position limits.

<sup>14</sup> *See* proposed Rules 8.30, Interpretation and Policy .09 (regarding position limits for options on stocks and ETFs), 8.31(e) (regarding position limits for broad-based index options), 8.32(f) (regarding position limits for industry index options), 8.33(c) (regarding position limits for micro narrow-based indexes), and 8.34(c) (regarding position limits for individual stock or ETF based volatility index options). The Exchange notes the proposed rule change adds Interpretation and Policy .09 to Rule 8.30 to state that with respect to options on stocks or ETFs, positions in Short Term Option Series, Monthly Options Series, and Quarterly Options Series shall be aggregated with positions in options contracts on the same underlying security. This is currently true with respect to Short Term Option Series and Quarterly Options Series but was inadvertently omitted from Rule 8.30. *See Notice, supra* note 3 at 68835.

<sup>15</sup> 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).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

participants to transact in the index and ETF options listed pursuant to the proposed rule change based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.<sup>17</sup> Further, the Exchange notes the proposed terms of Monthly Options Series, including the limitation to five index and ETF option classes, are substantively the same as the current terms of Quarterly Options Series.<sup>18</sup> The Exchange states that it currently lists Quarterly Options Series in certain index<sup>19</sup> and ETF classes, which expire at the close of business at the end of each calendar quarter, and has not experienced any market disruptions nor issues with capacity.<sup>20</sup> The Exchange believes limiting Monthly Options Series to five classes will ensure the addition of these new series will have a negligible impact on the Exchange's and Options Price Reporting Authority's quoting capacity.<sup>21</sup> The Exchange represents it has the necessary systems capacity to support new options series that will result from the introduction of Monthly Options Series.<sup>22</sup>

The Exchange represents its current surveillance programs will apply to Monthly Options Series and will properly monitor trading in the proposed Monthly Options Series.<sup>23</sup> The Exchange's surveillance programs currently in place to support and properly monitor trading in Quarterly Options Series, as well as Short Term Option Series and standard expiration series, will apply to the proposed Monthly Options Series.<sup>24</sup> The Exchange believes its surveillances continue to be designed to deter and detect violations of its Rules, including position and exercise limits and possible manipulative behavior, and these surveillances will apply to Monthly Options Series.<sup>25</sup> Further, the Exchange does not believe the proposed rule change raises any unique regulatory concerns because existing safeguards—such as position and exercise limits (and the aggregation of options overlying the same index or ETF) and

reporting requirements—would continue to apply.<sup>26</sup>

As noted above, the Exchange currently has Quarterly Options Series for up to five ETF or index classes. In addition, the Commission recently approved a proposal by the Exchange to permanently establish a Nonstandard Expiration Program, which permits, among other things, the listing and trading of broad-based index options with end of month expirations.<sup>27</sup> The Commission believes that the proposed Monthly Options Series, which the Exchange proposes to limit to a total of five ETF or index classes, strikes a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. Further, the Exchange has represented that it has an adequate surveillance program in place to detect manipulative trading in the Monthly Options Series and has the necessary systems capacity to support the new options series.<sup>28</sup> The Commission expects the Exchange, consistent with its Monthly Options Series delisting policy, to continue to monitor for option series with little or no open interest and trading activity and to act promptly to delist such options in order to mitigate the number of options series with no open interest.

Accordingly, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>29</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-CBOE-2023-049) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

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<sup>26</sup> See *id.*

<sup>27</sup> See Securities Exchange Act Release No. 98456 (September 20, 2023), 88 FR 66091 at 66092 (September 26, 2023) (SR-CBOE-2023-020).

<sup>28</sup> See *supra* notes 23–25 and accompanying text.

<sup>29</sup> 15 U.S.C. 78f(b)(5).

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98912; File No. SR-NASDAQ-2023-043]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 118

November 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 1, 2023, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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

The Exchange proposes to amend the Exchange's schedule of credits and fees at Equity 7, Section 118(a) as described further below. The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, 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 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 the proposed rule change is to (i) eliminate a credit to members for displayed quotes/orders

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

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

<sup>17</sup> See Notice, *supra* note 3 at 68835.

<sup>18</sup> Compare proposed Rules 4.5(g) and 4.13(a)(2)(C) to Rules 4.5(e) and 4.13(a)(2)(B), respectively. See Notice, *supra* note 3 at 68835.

<sup>19</sup> The Exchange notes it currently lists quarterly expirations on index options pursuant to Rule 4.13(c) (regarding quarterly index expirations).

<sup>20</sup> See Notice, *supra* note 3 at 68835.

<sup>21</sup> See *id.*

<sup>22</sup> See *id.*

<sup>23</sup> See *id.*

<sup>24</sup> See *id.*

<sup>25</sup> See *id.*