



August 4, 2023

VIA ELECTRONIC DELIVERY

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Securities Exchange Act Release No. 97898; File No. SR-FINRA-2023-010

Dear Ms. Countryman

Cboe Exchange, Inc. (“Cboe Options” or “Exchange”) appreciates the opportunity to comment on the above-referenced proposed rule change in which the Financial Industry Regulatory Authority, Inc. (“FINRA”) proposes to amend FINRA Rule 4210 regarding margin requirements to provide margin relief for specified index option transactions (the “FINRA Proposal”). For the reasons set forth below, the Exchange urges the Securities and Exchange Commission (the “Commission”) to promptly approve the FINRA Proposal.

Cboe Options Proposal

Recently, the Commission approved a Cboe Options proposed rule change to amend Cboe Options Rule 10.3 regarding margin requirements to provide margin relief for a cash-settled index option written against a holding in an exchange-traded fund (“ETF”) that tracks the same index as the index underlying the index option (a “protected option”).¹ Specifically, Cboe Options added an exception to its margin requirements applicable to short options positions on indexes that are offset by an underlying stock basket, non-leveraged mutual fund, or non-leveraged ETF that is based on the same index.² Cboe Options proposed this change to align margin requirements with the risk of the strategy and reduce operational burdens imposed on its Trading Permit Holders (“TPHs”) that accommodate protected option strategies, which could allow them to free up capital, and make these strategies more beneficial, for their customers while still providing for sufficient margin

¹ See Securities Exchange Act Release Nos. 96395 (November 28, 2022), 87 FR 74199 (December 2, 2022) (SR-CBOE-2022-058) (Notice of Filing of a Proposed Rule Change to Amend Rule 10.3 Regarding Margin Requirements) (“Cboe Options Proposal”); and 97019 (March 2, 2023), 88 FR 14416 (March 8, 2023) (CBOE-2022-058) (Approval of Proposed Rule Change to Amend Rule 10.3 Regarding Margin Requirements) (“Cboe Options Approval”). The Exchange notes no comments were submitted in response to the Cboe Options proposed rule change.

² Cboe Options Proposal at 74201.



protection.³ Upon approving the Cboe Options Proposal, the Commission stated it believed the rule change would facilitate the use of protected options and reduce associated costs and burdens.⁴

FINRA Proposal

Following Commission approval of the Cboe Options Proposal, FINRA proposed to conform its margin requirements to the updated Cboe Options' margin requirements to promote regulatory harmony with respect to margin requirements.⁵ Additionally, FINRA seeks to make the potential benefits of the updated Cboe Options' protected option margin treatment available to FINRA members and their customers.⁶ A large number of Cboe Options TPHs are also FINRA members and thus are subject to the margin requirements of both the Exchange and FINRA. As a result, despite Commission approval of the Cboe Options Proposal, these Cboe Options TPHs cannot take advantage of the potential benefits of the Exchange's protected option margin relief, as these TPHs continue to be subject to the current higher FINRA margin requirement for these strategies. The FINRA Proposal to adopt the same protected option margin relief as Cboe Options recently adopted would permit Cboe Options TPHs that are also FINRA members (as well as FINRA members that are not Cboe Options TPHs) to avail themselves of the benefits the Commission acknowledged this margin relief could provide for them and their customers, as described above.⁷

Conclusion

Cboe Options appreciates the opportunity to comment on the FINRA Proposal. Cboe Options strongly urges the Commission to approve the FINRA Proposal without undue delay. The Cboe Options Proposal was subject to an extended 90-day notice and public comment period, during which the Commission received no comment letters. Additionally, the FINRA Proposal is substantively identical to the Commission-approved Cboe Options Proposal, which the Commission previously determined to be consistent with the Securities Exchange Act of 1934 (the "Act") and beneficial to investors. Therefore, as the Commission has already considered the policy issues presented by the FINRA Proposal, Cboe Options believes accelerated approval is appropriate.

Prompt Commission approval of the FINRA Proposal will provide FINRA members with the same ability to offer margin relief for protected options that is now available under Cboe Options Rules. As a result, a significant number of industry members that accommodate protected option strategies can realize the potential operational efficiencies offered by the margin rule described in the FINRA Proposal (and the Cboe Options Proposal) and will promote regulatory harmonization regarding margin requirements. The Exchange believes the FINRA Proposal, like the Cboe Options Proposal, provides for margin requirements more tailored to protected option strategies, which may reduce the operational cost of the protected option strategy and make this strategy more

³ Id. at 74204.

⁴ Id. at 14418.

⁵ See Securities Exchange Act Release No. 97898 (July 13, 2023), 88 FR 46204 (July 19, 2023) (SR-FINRA-2023-010).

⁶ See id.

⁷ See supra note 4.



beneficial for customers. Additionally, the FINRA Proposal, like the Cboe Options Proposal, may reduce the margin required for such strategies, which will potentially free up capital that can be put back into the market, which ultimately benefits investors and the market as a whole.

Please feel free to contact Pat Sexton at [REDACTED] or me at [REDACTED] if you have any questions related this matter.

Respectfully submitted,

/s/ Laura G. Dickman

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