

(SECURITIES AND EXCHANGE COMMISSION)
(Release No. 34-96281; File No. SR-ISE-2022-18)

November 9, 2022

Self-Regulatory Organizations; Nasdaq ISE, LLC; Order Granting Approval of a Proposed Rule Change to Amend the Short Term Option Series Program

I. Introduction

On September 9, 2022, Nasdaq ISE, LLC (“ISE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to: (1) limit the number of Monday and Wednesday expiration dates for options on SPDR S&P 500 ETF Trust (SPY), the INVESCO QQQ TrustSM, Series 1 (QQQ), and iShares Russell 2000 ETF (IWM); and (2) permit the listing and trading of options series with Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Exchange’s short term option series program (“Short Term Options Series Program”). The proposed rule change was published for comment in the Federal Register on September 26, 2022.³ No comments were received. The Commission is approving the proposed rule change.

II. Description of the Proposal⁴

The Exchange proposes to amend the Short Term Option Series Program rules to: (1) decrease the number of Monday and Wednesday short term option expiration dates for options on SPY, QQQ, and IWM from five to two expirations; and (2) expand the Short Term Option

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 95841 (September 20, 2022), 87 FR 58399 (“Notice”).

⁴ For a full description of the proposal, refer to the Notice, supra note 3.

Series program to permit the listing and trading of options series with Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program, subject to the same proposed limitation of two expirations.

Curtail Short Term Option Expiration Dates and Re-organize Short Term Option Daily Expiration Rules

Currently, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on SPY, QQQ, and IWM to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (“Wednesday Expirations”). The Exchange also may open for trading on any Friday or Monday that is a business day series of options on the SPY, QQQ, or IWM to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire (“Monday Expirations”), 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. Currently, the Exchange may list up to five consecutive Wednesday Expirations and five consecutive Monday Expirations on each of SPY, QQQ, and IWM. The Exchange proposes to curtail the number of Short Term Option Expiration Dates from five to two per symbol for Monday Expirations and Wednesday Expirations.

Further, in conjunction with the proposal to add Tuesday and Thursday Expirations (as described below), the Exchange proposes to create a new category of Short Term Options called “Short Term Option Daily Expirations,” which will encompass the Monday, Tuesday, Wednesday, and Thursday Expirations. The Exchange proposes to include a table, labelled “Table 1”, within Supplementary Material .03 to Options 4, Section 5 to specify each symbol that qualifies as a Short Term Option Daily Expiration as well the number of expirations for each symbol on each expiration day. The Exchange is also proposing to specify that Monday and

Wednesday expirations may not expire on the same day in which monthly options series expire.⁵ Finally, the Exchange is amending Supplementary Material .03(b) to Options 4, Section 5, to replace the reference to Monday and Wednesday Expirations with “Short Term Option Daily Expirations,” which would permit Monday, Tuesday, Wednesday, and Thursday Expirations to expire in the same week in which monthly option series on the same class expire.

Short Term Options Series with Friday expirations on SPY, QQQ, IWM, and other symbols will continue to have a total of five Short Term Option Expiration Dates. These Friday expirations would be referred to as “Short Term Option Weekly Expirations” to distinguish them from the proposed Short Term Option Daily Expirations.

Tuesday and Thursday Expirations

The Exchange proposes to expand the Short Term Option Series Program to permit the Exchange to open for trading on any Monday or Tuesday that is a business day series of options on SPY and QQQ that expire at the close of business on each of the next two Tuesdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire (“Tuesday Expirations”). If the Tuesday Expiration falls on a Tuesday that is not a business day, the series shall expire on the first business day immediately prior to that Tuesday.

Similarly, the proposal would permit the Exchange to open for trading on any Wednesday or Thursday that is a business day series of options on SPY and QQQ that expire at the close of business on each of the next two Thursdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire (“Thursday Expirations”). If

⁵ The Exchange notes that practically speaking, Monday and Wednesday Expirations would not expire on the same day as a monthly expiration. See Notice, supra note 3 at 58401. As is currently the case, Monday and Wednesday Expirations may not expire on the same day as a Quarterly Options Series. See Supplementary Material .03 of Options 4, Section 5.

the Thursday Expiration falls on a Thursday that is not a business day, the series shall expire on the first business day immediately prior to that Thursday.⁶

Tuesday and Thursday Expirations would be subject to Supplementary Material .03 of Options 4, Section 5, as proposed to be amended. As noted above, the Exchange proposes to amend Commentary .11(b) to Options 4, Section 5 to permit Tuesday Expirations and Thursday Expirations to expire in the same week in which monthly options series on the same class expire. Otherwise, Tuesday Expirations and Thursday Expirations will be subject to the same rules as other Short Term Option Series.⁷

The Exchange does not believe that any market disruptions would be encountered with the introduction of Tuesday and Thursday Expirations.⁸ The Exchange believes that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Expirations.⁹ The Exchange currently trades Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM and stated that it has not experienced any market disruptions nor issues with capacity.¹⁰

⁶ Further, in order to accommodate the listing of Tuesday and Thursday Expirations, the Exchange also proposes to amend the definition of Short Term Options Series at Options 1, Section 1(a)(49) to add Tuesday and Thursdays to the permitted expiration days, which currently only include Monday, Wednesday, and Friday.

⁷ For example, the Tuesday Expirations and Thursday Expirations would be subject to the same strike interval rules and series limitations as other Short Term Option Series. See Notice, supra note 3, at 58401.

⁸ See id.

⁹ See id.

¹⁰ See id.

Implementation

The Exchange proposes to implement this rule change on or before November 14, 2022. The Exchange would issue an Options Trader Alert to notify Members of the implementation date. The Exchange states that Monday and Wednesday Expirations in SPY, QQQ, and IWM that were listed prior to the date of implementation would continue to be listed on the Exchange until those options expire pursuant to current Short Term Option Series rules within Supplementary Material .03 of Options 4, Section 5.¹¹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.¹² The Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹³ which requires, among other things, that a national securities exchange have rules 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. The proposal reduces the number of Short Term Option Expirations to be listed on ISE.¹⁴ This reduction may remove impediments to and

¹¹ See *id.* at 58403.

¹² 15 U.S.C. 78f(b). 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).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See Notice, *supra* note 3 at 58400.

perfect the mechanism of a free and open market by encouraging market makers to deploy capital more efficiently and improve displayed market quality. The Exchange stated that it believes that despite the proposed curtailment of expirations, its members would continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.¹⁵ Therefore, the Commission believes that the proposal is reasonably designed to effectuate the Exchange's goal of balancing a reduction in the number of Short Term Option Expirations with the needs of market participants.

The Exchange's proposal to permit SPY and QQQ Tuesday and Thursday Expirations may provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in SPY and QQQ options, thus allowing them to better manage their risk exposure. In addition, the Tuesday and Thursday Expirations would be subject to rules similar to existing Exchange rules permitting the listing and trading of Monday and Wednesday Expirations in SPY and QQQ options.¹⁶ Further, the Exchange has represented that it has an adequate surveillance program in place to detect manipulative trading in SPY and QQQ Tuesday and Thursday Expirations and has the necessary systems capacity to support the new options series.¹⁷

Therefore, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act¹⁸ and the rules and regulations thereunder applicable to a national securities exchange.

¹⁵ See id. at 58403.

¹⁶ See id. at 58400.

¹⁷ See id. at 58401.

¹⁸ 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁹ that the proposed rule change (SR-ISE-2022-18), be, and hereby is, approved.

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

J. Matthew DeLesDernier

Deputy Secretary

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 17 CFR 200.30-3(a)(12).