

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91659; File No. SR-CBOE-2021-028)

April 23, 2021

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 4.5(d) to Allow Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust (“QQQ”)

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 April 21, 2021, 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 Rule 4.5(d) to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust (“QQQ”). The text of the proposed rule change is provided in Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 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 Rule 4.5(d) to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on QQQ. The Exchange notes that this proposed rule change is substantively identical to a rule change recently adopted by Nasdaq Phlx LLC. ("Phlx"), filed with the Securities and Exchange Commission ("Commission").⁵

Rule 4.5(d) currently governs the Exchange's Short Term Option Series Program. Short Term Option Series are weekly series in an option class that is approved for listing and trading on the Exchange, which may be opened for trading on any Thursday or Friday that is a business day and expires that expire at the close of business on each of the next five Fridays that are business

⁵ See Securities Exchange Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR-Phlx-2021-10) (Notice of Filing of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM).

days and are not Fridays on which monthly options series or Quarterly Options Series expire. Rule 4.5(d) also provides that the Exchange may open weekly series for options on the SPDR S&P 500 ETF Trust (“SPY”) with Monday and Wednesday expirations. The proposed rule change amends Rule 4.5(d) to also allow Monday and Wednesday expirations for options on QQQ. Specifically, the proposed rule change amends Rule 4.5(d) to provide that the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPDR S&P 500 ETF Trust (“SPY”) (“Monday SPY Expiration Opening Date”)⁶ and series of options on the Invesco QQQ Trust (“QQQ”) (“Monday QQQ Expiration Opening Date”) that expire at the close of business each of the next five Mondays that are business days and are no Mondays on which Quarterly Options Series expire (“Monday SPY Expirations” and “Monday QQQ Expirations”), provided that any Monday SPY and QQQ Expiration Opening Date that is a Friday is one business week and one business day prior to expiration. The Exchange may also open for trading on any Tuesday or Wednesday that is a business day series of SPY options (“Wednesday SPY Expiration Opening Date”) and series of QQQ options (“Wednesday QQQ Expiration Opening Date”) that expire at the close of business on each of the next five Wednesdays that are business days and are not Wednesdays on which Quarterly Options Series expire (“Wednesday SPY Expirations” and “Wednesday QQQ Expirations”). The Exchange may have no more than a total of five of each Monday SPY and QQQ Expirations and no more than a total of five of each Wednesday SPY and QQQ Expirations. Non-Monday and non-Wednesday SPY and QQQ Expirations are not included as part of this count. If the Exchange is not open for business on the respective Friday or Monday, the Monday SPY and QQQ Expiration Opening Date will be the first business day immediately prior to that respective

⁶ The proposed rule change also relocates certain defined terms within Rule 4.5(d) for additional clarity and ease of understanding.

Friday or Monday. If the Exchange is not open for business on a Monday, the expiration date for a Monday SPY and QQQ Expiration will be the first business day immediately following that Monday. If the Exchange is not open for business on the respective Tuesday or Wednesday, the Wednesday SPY and QQQ Expiration Opening Date will be the first business day immediately prior to that respective Tuesday or Wednesday. Similarly, if the Exchange is not open for business on a Wednesday, the expiration date for a Wednesday SPY and QQQ Expiration will be the first business day immediately prior to that Wednesday. Additionally, the proposed rule change amends Rule 4.5(d)(2), which currently excepts Monday and Wednesday SPY Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire, to provide that no Short Term Option Series (excluding Monday and Wednesday SPY and QQQ Expirations) may expire in the same week in which monthly option series on the same class expire.

The Exchange believes that the introduction of QQQ Monday and Wednesday Expirations will expand hedging tools available to market participants and assist in reducing the premium cost of buying protection. By offering Monday and Wednesday QQQ Expirations, the proposed rule change will allow market participants to purchase QQQ based on their timing needs and allow them to more effectively tailor their investment and hedging strategies.

The Exchange notes that, pursuant to the proposed rule change, if the Exchange is not open for business on a Wednesday, then a Wednesday QQQ Expiration will expire on the first business day immediately prior to that Wednesday (e.g., Tuesday of that week). However, regarding Monday QQQ Expirations, if the Exchange is not open for business on a Monday, then a Monday QQQ Expiration will expire on the first business day following that Monday (e.g., Tuesday of that week). This is the same expiration process currently in place for Monday and Wednesday SPY Expirations.

The Exchange believes that it is appropriate to require Monday expiration series to expire on the Tuesday of that week, rather than the previous business day (e.g., the previous Friday), when expiration Monday does not fall on a business day because the immediately following Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday. Therefore, the following business day in this case may be more representative of anticipated market conditions than the previous business day. The Exchange notes that, not only are Monday SPY Expirations treated in the same manner today, but the same applies to weekly index options listed pursuant to the Nonstandard Expiration Program.⁷ The Exchange also notes that permitting Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class, like that of Monday and Wednesday SPY Expirations, is appropriate because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that listing Monday and Wednesday QQQ Expirations each week of the month will provide consistency for investors and mitigate any potential confusion regarding weekly listings.

The Exchange notes that the interval between strike prices for the proposed Monday and Wednesday QQQ Expirations are the same as those for the Monday and Wednesday SPY Expirations and the Short Term Option Series with Wednesday and Friday expirations.⁸ Specifically, the proposed Monday and Wednesday QQQ Expirations have a \$0.50 strike interval minimum.⁹ As is the case with other equity options series listed pursuant to the Short Term Option Series Program, Monday and Wednesday QQQ Expirations are P.M.-settled. Also, pursuant to Rule

⁷ See Rule 4.13(e)(1).

⁸ See Rule 4.5(d)(5).

⁹ See id.

4.5(d)(1), the Exchange may open up to 30 Short Term Option Series for each expiration date in each option class eligible for participation in the Short Term Option Series Program. This includes Monday and Wednesday QQQ Expirations for QQQ options. In addition to the 30 series per class, the Exchange may open Short Term Option Series, including Monday and Wednesday QQQ Expirations, that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists weekly series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,¹⁰ and has not experienced any issues regarding adverse market impact in connection with the listing of these series. The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently deploys such surveillance programs to monitor Monday and Wednesday SPY Expirations and has not experienced any issues with capacity in connection with listing Monday and Wednesday SPY Expirations. The Exchange intends to begin implementation of the proposed rule change on April 23, 2021, as Phlx intends to begin listing weekly Monday QQQ Expirations on this date.¹¹ The Exchange will issue a notice of the planned implementation date to its Trading Permit Holders (“TPHs”) in advance.¹²

¹⁰ See supra note 7.

¹¹ See Options Trader Alert #2021 – 23, Nasdaq PHLX Introduces Monday and Wednesday Weekly Expirations For QQQ Options (April 12, 2021) available at: <http://www.nasdaqtrader.com/MicroNews.aspx?id=23>. Phlx anticipates listing weekly Wednesday QQQ Expirations on April 27, 2021.

¹² See Rule 1.5, which provides that the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules via: (1) Specifications, Notices, or

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.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that listing Monday and Wednesday QQQ Expirations, like Monday and Wednesday SPY Expirations already listed for trading, will expand the ability of investors to effectively hedge risk against market movements stemming from economic releases or market events that occur throughout the month. The Exchange believes that offering Monday and Wednesday QQQ Expirations will create greater trading and hedging opportunities and

Regulatory Circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ Id.

flexibility for investors, allowing them to use QQQ options listed pursuant to the Short Term Option Series Program in a manner more effectively tailored their investment and hedging objectives. As already noted, the Exchange currently offers series with the same settlement (P.M.) and expirations (Monday and Wednesday) for options on SPY and for weekly index options pursuant to the Nonstandard Pilot Program.¹⁶ The Exchange again notes that the proposed rule change is substantively identical to a rule recently adopted by Phlx and filed with the Commission.¹⁷

The manner in which Monday QQQ Expirations will expire when expiration Monday lands on a holiday is consistent with the manner in which Monday SPY Expirations currently expire under the same circumstances. The Exchange believes that allowing Monday QQQ Expirations that expire on a holiday to fall on the following business day, as opposed to the prior business day (as applicable to Wednesday and Friday expirations that expire on a holiday), removes impediments to and perfects the mechanism of a free and open market and national by permitting such Monday expirations to occur closer in time to the scheduled expiration date of the series, which may be more representative of anticipated market conditions. Additionally, the proposed rule change to except Monday and Wednesday QQQ Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire is consistent with the same exception that currently applies to Monday and Wednesday SPY Expirations.¹⁸ The proposed rule change is designed to provide consistency for investors and mitigate any potential confusion regarding weekly listings each week of the month.

¹⁶ See supra note 7.

¹⁷ See supra note 5.

¹⁸ As stated herein, because monthly options expire on Fridays, Monday and Wednesday weekly options will not land on the same day.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,¹⁹ and has not observed any adverse market impact in connection with the listing of these series. The Exchange represents that it already has an adequate surveillance program in place to detect and deter any manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, and that it has the necessary systems capacity to support the listing and trading of the new series.

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 as Monday and Wednesday QQQ Expirations will be available for quoting and trading on the Exchange for all market participants. Therefore, all market participants will equally be able to transact in QQQ series listed with Monday and Wednesday expirations for trading on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as it only impacts the permissible expirations for an option series listed on the Exchange. As stated, another options exchange has recently implemented a substantively identical rule to

¹⁹ See supra note 7.

permit Monday and Wednesday QQQ expirations on its exchange.²⁰ As such, this proposal is a competitive response that will permit the Exchange to list the same expirations for series in a multiply-listed option as another options exchange.

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

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) of the Act²¹ and Rule 19b-4(f)(6) thereunder.²²

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²³ permits the Commission to 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 five-day pre-filing requirement and the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved

²⁰ See supra note 5.

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 Commission has waived that requirement in this case.

²³ 17 CFR 240.19b-4(f)(6)(iii).

Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.²⁴ The Exchange has stated that waiver of the five-day pre-filing requirement and the 30-day operative delay will allow the Exchange to implement the proposal as a competitive response, permitting the Exchange to list the same expirations for series in a multiply-listed option as another options exchange, at the same time that such options exchange intends to list such series. For these reasons, 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, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the pre-filing requirement and the operative delay and designates the proposed rule change operative upon filing.²⁵

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 shall institute proceedings to determine whether the proposed rule change 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

²⁴ See Securities Exchange Act Release No. 91614 (April 20, 2021).

²⁵ 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).

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-2021-028 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-2021-028. 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, D.C. 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-2021-028 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.²⁶

J. Matthew DeLesDernier
Assistant Secretary

²⁶ 17 CFR 200.30-3(a)(12).