

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-813, OMB Control No. 3235-0765]

### Proposed Collection; Comment Request; Extension: Rule 498A

*Upon Written Request, Copies Available*

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (“Paperwork Reduction Act”) (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 498A under the Securities Act permits a person to satisfy its prospectus delivery obligations under Section 5(b)(2) of the Securities Act for a contract by: (1) sending or giving to new investors key information contained in a variable contract statutory prospectus in the form of an initial summary prospectus; (2) sending or giving to existing investors each year a brief description of certain changes to the contract, and a subset of the information in the initial summary prospectus, in the form of an updating summary prospectus; and (3) providing the statutory prospectus and other materials online. Rule 498A considers a person to have met its prospectus delivery obligations for any portfolio companies associated with a variable contract if the portfolio company prospectuses are posted online. Under the rule, a registrant (or the financial intermediary distributing the variable contract) relying on the rule must send the variable contract statutory prospectus (that statutory prospectus must be filed as part of registration statement on Form N-3, N-4, or N-6, as applicable) and other materials to an investor in paper or electronic format upon request.

Based on current EDGAR data, 82% of variable contracts that filed annual updates to their registration statements filed at least one summary prospectus under rule 498A. In the aggregate, the Commission staff estimates the total annual hour burden to comply with Rule 498A to be 7,634 hours, at an internal time cost equivalent of \$2,337,471, and a total annual external cost burden of \$9,094,866.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by November 27, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: September 21, 2023.

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98455; File No. SR-CBOE-2023-019]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Granting Approval of a Proposed Rule Change To Make Permanent the Operation of Its Pilot Program That Allows the Exchange To List P.M.-Settled Third Friday-of-the-Month Mini-SPX Index (“XSP”) Options and Mini-Russell 2000 Index (“MRUT”) Options Series

September 20, 2023.

#### I. Introduction

On April 19, 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 make permanent the operation of its pilot program (“Program”) that permits the Exchange to list p.m.-settled third Friday-of-the-month XSP and MRUT options (“p.m.-settled XSP” and “p.m.-settled MRUT,” respectively, and collectively, the “Pilot Products”). The proposed rule change was published for comment in the **Federal Register** on April 28, 2023.<sup>3</sup> On June 9, 2023, pursuant to section 19(b)(2) of the Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> On July 27, 2023, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>6</sup> The Commission did not receive any comment letters and is approving the proposed rule change.

#### II. Background

When cash-settled<sup>7</sup> index options were first introduced in the 1980s, they

<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. 97366 (April 24, 2023), 88 FR 26359 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 97678, 88 FR 39285 (June 15, 2023). The Commission designated July 27, 2023, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

<sup>6</sup> See Securities Exchange Act Release No. 98005, 88 FR 50943 (August 2, 2023).

<sup>7</sup> The seller of a “cash-settled” index option pays out the cash value of the applicable index on expiration or exercise. A “physical delivery” option, like equity and ETF options, involves the