

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

### 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 Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>9</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NASDAQ requests that the Commission waive the 30-day operative delay because it currently has the technological changes ready to support the proposed rule change, and believes that the benefits of providing members with an additional option for routing to a new low cost trading venue should not be delayed. The Commission believes that waiving the 30-day operative delay<sup>10</sup> is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.

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 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-127 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2010-127. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>11</sup> 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 Web site viewing and printing in the Commission's Public Reference Room, 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. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2010-127 and should be submitted on or before November 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63096; File No. SR-CBOE-2010-077]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change To List Series With Up to 12 Expiration Months for Broad-Based Security Index Options Upon Which the Exchange Calculates a Volatility Index

October 13, 2010.

#### I. Introduction

On August 24, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") 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 allow the Exchange to list series with up to 12 expiration months for options that overlie broad-based security indexes for which options are used by the Exchange to calculate a volatility index. On September 2, 2010, the Exchange filed Amendment No. 1, which replaced the original filing in its entirety. The proposed rule change, as amended, was published for comment in the **Federal Register** on September 10, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

CBOE has proposed to amend Rule 24.9(a)(2), Terms of Index Options, to allow the Exchange to list series with up to 12 expiration months for broad-based security index options upon which the Exchange calculates a volatility index. Currently, Rule 24.9(a)(2) permits the Exchange to list series with only seven

<sup>12</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> Securities Exchange Act Release No. 62847 (September 3, 2010), 75 FR 55383 ("Notice").

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 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. Nasdaq has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

expiration months in any index options upon which the Exchange calculates a constant three-month volatility index.

In support of its proposal, CBOE stated that, since 2009, volatility trading has experienced significant growth in trading volume. In order to satisfy growing demand for a wider variety of volatility investment strategies, the Exchange is seeking to increase, from seven to 12, the number of expiration months for broad-based security index options upon which the Exchange calculates a volatility index. In doing so, the Exchange hopes to create flexibility that would enable it to create volatility indexes of varying lengths in response to demand for a wider variety of volatility investment strategies. Accordingly, the Exchange also proposes to delete language from the rule text restricting the volatility index options to indexes on which the Exchange calculates a constant three-month volatility index. The Exchange believes that the additional expirations, which will be listed in monthly intervals over a one-year time frame, will provide the Exchange with the flexibility to create indexes that represent unique volatility exposures, and enable the Exchange to respond quickly to investor demand for new volatility-based products.

CBOE further stated that it has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the ability to list series with up to 12 expiration months for broad-based security index options upon which the Exchange calculates a volatility index.

### III. Discussion

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.<sup>4</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 will provide investors with added flexibility in the trading of volatility index options and allow investors to establish options positions that are more precisely tailored to meet their investment objectives. The Commission believes that the proposal strikes a reasonable balance between the Exchange's desire to accommodate market participants by offering a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

In addition, the Commission notes that CBOE has represented that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the newly permitted listings.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-CBOE-2010-077) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63095; File No. SR-MSRB-2010-10]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Consisting of Amendments to Rule A-13 To Increase Transaction Assessments for Certain Municipal Securities Transactions Reported to the Board and To Institute a New Technology Fee on Reported Sales Transactions

October 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("the

Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 30, 2010, the Municipal Securities Rulemaking Board ("Board" or "MSRB") 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 MSRB. 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 MSRB has filed with the Commission a proposed rule change relating to assessments for brokers, dealers, and municipal securities dealers ("dealers") under MSRB Rule A-13. The proposed rule change consists of amendments to Rule A-13 to increase transaction assessments for certain municipal securities transactions reported to the Board and to institute a new technology fee on reported sales transactions. The proposed rule change would amend Rule A-13 to (a) Increase the existing transaction assessments for inter-dealer and customer sales from .0005% to .001% of the total par value of inter-dealer sales and sales to customers that are reported by dealers to the MSRB (the "transaction fee"), and (b) impose a technology fee of \$1.00 per transaction for inter-dealer and customer sales reported to the Board (the "technology fee"). The technology fee would be transitional in nature and would be reviewed by the Board periodically to determine whether it should continue to be assessed. The MSRB proposes an effective date for this proposed rule change of January 1, 2011.

The text of the proposed rule change is available on the MSRB's Web site at <http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2010-Filings.aspx> 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 MSRB 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 Board has

<sup>4</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>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</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.