

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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR-BX-2010-070 and should be submitted on or before November 23, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63186; File No. SR-CBOE-2010-095]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Hybrid 3.0 Classes

October 27, 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 October 25, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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 Act<sup>3</sup> and Rule 19b-4(f)(6)

thereunder.<sup>4</sup> 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 Exchange is proposing to amend its rules that relate to the designation of index options and options on exchange-traded funds ("ETFs") for trading on CBOE's Hybrid Trading System and Hybrid 3.0 Platform and eligible categories of Market-Maker participants. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>.) at the Exchange's Office of the Secretary and at the Commission.

#### 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 self-regulatory organization 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 those 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 parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange is proposing to amend its rules that relate to the designation of index options and options on ETFs for trading on the Hybrid Trading System and Hybrid 3.0 Platform. The "Hybrid Trading System" refers to the Exchange's trading platform that allows Market-Makers to submit electronic quotes in their appointed classes. The "Hybrid 3.0 Platform" is an electronic trading platform on the Hybrid Trading System that allows one or more quoters to submit electronic quotes which represent the aggregate Market-Maker quoting interest in the series for the trading crowd.

Currently, the particular trading platform on which such an option contract is traded and the eligible categories of Market-Maker participants for those options are designated by the Exchange on a class-by-class basis pursuant to Rule 8.14, *Index Hybrid Trading System Classes: Market-Maker*

*Participants*. The Exchange is now proposing to amend this rule as it relates to classes designated for trading on the Hybrid 3.0 Platform. Specifically, the Exchange is proposing to provide that, for each Hybrid 3.0 class, the Exchange may determine to authorize a group of series of the class for trading on the Hybrid Trading System and, if that authorization is granted, the Exchange would determine the eligible categories of Market-Maker participants for that group of series.<sup>5</sup> The Exchange would assign a Designated Primary Market-Maker ("DPM") or Lead Market-Maker ("LMM") to the group of series. Alternatively, the Exchange could determine to designate the group of series for trading without a DPM or LMM provided certain conditions set forth in Rule 8.14(b) are satisfied with respect to the group of series.<sup>6</sup>

EXAMPLE (for illustrative purposes only): Currently options on the Standard & Poor's 500 Index (symbol SPX) are the only class of options traded on the Hybrid 3.0 Platform. Pursuant to the proposed rule change, the Exchange could determine to designate all end-of-week option series in the SPX option class for trading on the Hybrid Trading System without a DPM or LMM.<sup>7</sup> All other series of the SPX option class could continue to be designated for trading on the Hybrid 3.0 Platform with two rotating LMMs.

When selecting series to trade on the Hybrid Trading Platform, the Exchange intends to generally select series with common expirations or classifications, e.g., end-of-week series or end-of-month series, short term option series, or series that expire on a particular expiration date. The Exchange notes that an individual series would only trade on one trading platform at a given time, not both. What trading platform an individual series trades on is controlled by CBOE in how the series is set up in

<sup>5</sup> The Exchange would also have the authority to determine whether to change the trading platform on which the group of series trades and change the eligible categories of Market-Maker participants for the group.

<sup>6</sup> Specifically, the group of series could be designated to trade on the Hybrid Trading System without a DPM or LMM provided the following conditions, as applicable, are satisfied: (1) There are at least four (4) Market-Makers quoting in the group of series; (2) Each Market-Maker with an appointment in the group of series is subject to the continuous quoting obligations imposed by CBOE Rule 8.7(d); and (3) In the event the Exchange activates request-for-quote ("RFQ") functionality (which has not been activated for any class traded on the Exchange), each Market-Maker would have an obligation to respond to that percentage of RFQs as determined by the Exchange for the group of series subject to certain requirements specified in Rule 8.14(b)(3).

<sup>7</sup> To the extent that the Exchange would determine to designate SPX end-of-week series for trading on the Hybrid Trading System without a DPM or LMM, certain conditions set forth in Rule 8.14(b) would have to be satisfied, as applicable. *Id.*

<sup>9</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> 15 U.S.C. 78s(b)(3)(A)(iii).

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

CBOE *direct* (the trading engine for the Hybrid Trading System and Hybrid 3.0 Platform). Using the example above, CBOE would change the platform designation for SPX end-of-week series in CBOE *direct* to the Hybrid Trading System and keep the platform designation for all other SPX series on the Hybrid 3.0 Platform. In addition, the Exchange plans to introduce a new option symbol to denote the series that are trading on a different platform. Using the example above, SPX end-of-week series might trade under symbol SPXW while all other SPX series would continue to trade under symbol SPX.

The Exchange notes that CBOE has had several trading platform changes over the years for entire option classes (e.g., CBOE has moved certain other option classes from the Hybrid 3.0 Platform to the Hybrid Trading System). The move of a group of series within a class would operate similar to the way other option class moves have operated in the past. In this regard, the Exchange generally provides CBOE Trading Permit Holders at least one trading day's advance notice of trading platform changes via regulatory circular. For the initial changeover of any SPX series that may be traded on the Hybrid Trading System, however, the Exchange plans to give at least one week advance notice so that Trading Permit Holders can be made aware that the platform change would only be for a select group of series and not the whole class, and so that the Exchange can schedule education sessions to explain the change to Trading Permit Holders. Once the Exchange has made an initial changeover, if we would determine to add (or remove) series from the Hybrid Trading Platform we plan to revert back to the general approach of providing at least one trading day's advance notice for those subsequent changes.

The following would also apply: Market-Maker appointments would continue to apply on a class basis, except DPM, LMM and Electronic DPM ("e-DPM") appointments would apply only to the group of series to which the respective DPM, LMM or e-DPM is assigned, if applicable. In addition, the Hybrid Trading System trading parameters (e.g., applicable matching algorithm parameters under Rule 6.45B, *Priority and Allocation of Trading in Index Options and Options on ETFs on the CBOE Hybrid System*; opening rotation parameters under Rule 6.2B, *Hybrid Opening System ("HOSS")*; automatic execution parameters under Rule 6.13, *CBOE Hybrid System's Automatic Execution Feature*; Simple Auction Liaison parameters under Rule

6.13A, *Simple Auction Liaison (SAL)*,<sup>8</sup> Hybrid Agency Liaison parameters under Rule 6.14A, *Hybrid Agency Liaison 2 (HAL2)*,<sup>9</sup> complex order book ("COB") and complex order request-for-response auction ("COA") parameters under Rule 6.53C, *Complex Orders on the Hybrid System*, Automated Improvement Mechanism parameters under Rule 6.74A, *Automated Improvement Mechanism ("AIM")*,<sup>10</sup> etc.) would be established by the Exchange on a group basis, instead of on a class basis, to the extent the Exchange Rules otherwise provide for such parameters to be established on a class basis. Thus, using the example above, CBOE would set the trading parameters (e.g., parameters for the matching algorithm, HOSS, automatic execution, SAL, HAL2, COB, COA, AIM, etc.) for the SPX end-of-week series group that would trade on the Hybrid Trading System platform, and separately set the trading parameter for all other SPX series that would remain on the Hybrid 3.0 platform.

Finally, the Exchange is proposing to amend the text of Rule 8.14 to delete paragraph (b)(4), which is outdated and no longer applicable. Paragraph (b)(4) contains an outdated provision related to the Intermarket Options Linkage Plan, which has been replaced by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage.<sup>11</sup>

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>12</sup> that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes the proposed change would provide more flexibility to designate trading platform and Market-Maker categories based on a group of series in a manner that is consistent with existing CBOE rules that

<sup>8</sup> SAL is a feature within the Hybrid System that auctions marketable orders for price improvement over the National Best Bid or Offer ("NBBO").

<sup>9</sup> HAL2 is a feature in the Hybrid System that provides automated order handling in designated classes for qualifying electronic orders that are not automated executed by the Hybrid System.

<sup>10</sup> AIM is a feature within the Hybrid System that provides Trading Permit Holders with the ability to electronically execute agency orders against principal interest or against a solicited order provided the agency order is submitted for electronic execution into an auction.

<sup>11</sup> See, e.g., Securities Exchange Act Release No. 56761 (November 7, 2007), 72 FR 64094 (November 14, 2007).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

permit such designations on a class basis.

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

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

## 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 proposal.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> At any time within 60 days of the filing of such 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.

## 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

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

Number SR-CBOE-2010-095 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-CBOE-2010-095. 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, 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2010-095 and should be submitted on or before November 23, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63185; File No. SR-CBOE-2010-097]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a Pilot Program To List Series With Additional Expiration Months for Each Class of Options Opened for Trading on the Exchange

October 27, 2010.

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> notice is hereby given that, on October 26, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 proposes to amend its rules to adopt a pilot program to list additional expiration months for each class of options opened for trading on the Exchange. The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's principal office, 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 self-regulatory organization 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 those 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 parts 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 its rules to adopt a pilot program to list additional expiration months for each class of options opened for trading on the Exchange. Pursuant to Interpretation and Policy .03 to Rule 5.5, the Exchange currently opens four expiration months for each class of options open for trading on the Exchange: the first two being the two nearest months, regardless of the quarterly cycle on which that class trades; the third and fourth being the next two months of the quarterly cycle previously designated by the Exchange for that specific class. For example, if the Exchange listed, in late April, a new stock option on a January-April-July-October quarterly cycle, the Exchange would list the two nearest term months (May and June) and the next two expiration months of the cycle (July and October). When the May series expires, the Exchange would add January series. When the June series expires, the Exchange would add August series as the next month, and would not add April.

The Exchange believes that there is market demand for a greater number of expiration months. The Exchange therefore proposes to adopt a pilot program pursuant to which it will list up to an additional two expiration months, for a total of six expiration months for each class of options open for trading on the Exchange.<sup>5</sup> The proposal will become effective on a pilot basis for a period of twelve months to commence on the next full month after approval is received to establish the pilot program. Under the proposal, the additional months listed pursuant to the pilot program will result in four consecutive expiration months plus two months from the quarterly cycle. For example, for option classes in the January cycle that have expiration months of June, July, October, and January, the Exchange would additionally list the August and September series. For option classes in the February quarterly cycle that have expiration months of October, November, February and May, the

<sup>5</sup> CBOE does not believe that Rule 5.5.03 limits the maximum number of expiration months that may be listed. Rule 5.5(a) and 5.5(c) provide CBOE with the flexibility to add additional expiration months, which the Exchange has previously done. By establishing the pilot program proposed in this filing, CBOE is not limited to its existing ability.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

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

<sup>15</sup> 17 CFR 200.30-3(a)(12).