

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

Written comments relating to the proposed rule change were not and are not intended to be solicited or received. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(4)<sup>15</sup> thereunder because the proposed rule change effects a change in an existing service of DTC that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate 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 Number SR-DTC-2010-07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Elizabeth M. Murphy, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-DTC-2010-07. 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/dtc/2010-07.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/dtc/2010-07.pdf). 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-DTC-2010-07 and should be submitted on or before May 13, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61921; File No. SR-NYSEAmex-2010-38]

**Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 903 Commentary .06**

April 15, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 12, 2010, NYSE Amex LLC (the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 proposes to amend Rule 903 Commentary .06 to permit the concurrent listing of \$3.50 and \$4 strikes for classes that participate in both the \$0.50 Strike and \$1 Strike Programs. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, 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 purpose of this filing is to amend Rule 903 Commentary .06 to permit the concurrent listing of \$3.50 and \$4 strikes for classes that participate in both the \$0.50 Strike and \$1 Strike Programs.

The Exchange recently implemented a rule change that permits strike price intervals of \$0.50 for options on stocks trading at or below \$3.00 ("\$0.50 Strike Program").<sup>5</sup> As part of the filing to establish the \$0.50 Strike Program, the Exchange contemplated that a class may be selected to participate in both the

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

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

<sup>5</sup> See Exchange Act Release No. 60720 (September 25, 2009) 74 FR 51205 (October 5, 2009).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(4).

<sup>16</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.

\$0.50 Strike Program and the \$1 Strike Program.

Under the \$1 Strike Program, new series with \$1 intervals are not permitted to be listed within \$0.50 of an existing \$2.50 strike price in the same series, except that strike prices of \$2 and \$3 are permitted to be listed within \$0.50 of a \$2.50 strike price for classes also selected to participate in the \$0.50 Strike Program. Under NYSE Amex's existing rule, for classes selected to participate in both the \$0.50 Strike Program and the \$1 Strike Program, the Exchange may either: (a) List a \$3.50 strike but not list a \$4 strike; or (b) list a \$4 strike but not list a \$3.50 strike. For example, under the Exchange's current rules, if a \$3.50 strike for an option class in both the \$0.50 and \$1 Strike Programs was listed, the next highest permissible strike price would be \$5.00. Alternatively, if a \$4 strike was listed, the next lowest permissible strike price would be \$3.00. The intent of the \$0.50 Strike Program was to expand the ability of investors to hedge risks associated with stocks trading at or under \$3 and to provide finer intervals of \$0.50, beginning at \$1 up to \$3.50. As a result, the Exchange believes that the current filing is consistent with the purpose of the \$0.50 Strike Program and will permit the Exchange to fill in any existing gaps resulting from having to choose whether to list a \$3.50 or \$4 strike for options classes in both the \$0.50 and \$1 Strike Programs.

Therefore, the Exchange is submitting the current filing to permit the listing of concurrent \$3.50 and \$4 strikes for classes that are selected to participate in both the \$0.50 Strike Program and the \$1 Strike Program. To effect this change, the Exchange is proposing to add \$4 to the strike prices of \$2 and \$3 currently permitted if a class participates in both the \$0.50 Strike Program and the \$1 Strike Program.

The Exchange is also proposing to amend the current rule text to delete references to "\$2.50 strike prices" (and the example utilizing \$2.50 strike prices) and to replace those references with broader language, e.g., "existing strike prices."

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>7</sup> in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and

manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest by permitting the Exchange to list more granular strikes on options overlying lower priced securities, which the Exchange believes will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives.

### 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.

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

No written comments were solicited or received with respect to 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 significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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)<sup>8</sup> of the Act and Rule 19b-4(f)(6)<sup>9</sup> thereunder. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change.

The Exchange has requested that the Commission waive the 30-day operative delay to permit the Exchange to list series available on other exchanges. The Commission finds that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will enable the Exchange to compete with other exchanges whose rules permit concurrent listing of \$3.50 and \$4 strikes for classes similarly participating in both a \$0.50 strike program and a \$1 strike program. Therefore, the

Commission designates the proposal operative upon filing.<sup>10</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 Number SR-NYSEAmex-2010-38 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-NYSEAmex-2010-38. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10

<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/>.

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

<sup>7</sup> 15 U.S.C. 78f(b)(6).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

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

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-NYSEAmex-2010-38 and should be submitted on or before May 13, 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. 34-61915; File No. SR-CBOE-2010-033]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated: Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Strategy Fee Cap Program

April 15, 2010.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 26, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its strategy fee cap program. 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, CBOE 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. CBOE has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

##### (a) Purpose

The Exchange caps market-maker, firm, and broker-dealer transaction fees associated with dividend, merger and short stock interest strategies, as described in Footnote 13 of the CBOE Fees Schedule ("Strategy Fee Cap"). Specifically, market-maker, firm and broker-dealer transaction fees are capped at \$1,000 for all (i) Dividend strategies,<sup>1</sup> (ii) merger strategies<sup>2</sup> and (iii) short stock interest strategies<sup>3</sup> executed on the same trading day in the same options class. In addition, such transaction fees for these strategies are further capped at \$25,000 per month per initiating member or firm.

The Exchange proposes a limited expansion of the Strategy Fee Cap program. Specifically, the Exchange proposes to cap market-maker and broker-dealer transaction fees at \$1,000 for all reversals, conversions and jelly roll strategies (as defined below) executed on the same trading day in the same Flexible Exchange (FLEX) option class, excluding any option class on which the Exchange charges the surcharge fee under Footnote 14 of the CBOE Fees Schedule. As under the current program, such transaction fees would be further capped at \$25,000 per month per initiating member or firm, and to qualify transactions for the cap a rebate request with supporting documentation must be submitted to the

<sup>1</sup> A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed prior to the date on which the underlying stock goes ex-dividend.

<sup>2</sup> A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, *i.e.*, cash or stock.

<sup>3</sup> A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.

Exchange within 3 business days of the transactions.<sup>4</sup>

Reversals, conversions and jelly roll strategies are included in the strategy fee cap programs of other exchanges.<sup>5</sup> Reversals and conversions are transactions that employ calls, puts and the underlying security to lock in a nearly risk free profit. Reversals are established by combining a short security position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying security that accompany long puts and short calls sharing the same strike and expiration.

A Jelly Roll is a long calendar call spread combined with the same short calendar put spread, or vice versa. This option strategy aims to profit from a time value spread through the purchase and sale of two call and two put options, each with different expiration dates. A Jelly Roll is created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but a different expiration from the first position. Below is an example of a Jelly Roll strategy execution.

XYZ Jun/Oct 25 Jelly Roll:

—Buy XYZ Jun 25 put and sell XYZ Jun 25 call  
—Sell XYZ Oct 25 Put and buy XYZ Oct 25 call

Market BBO:

Jun 25 call .51 at .53  
Jun 25 put .72 at .74  
Oct 25 call 1.52 at 1.55  
Oct 25 put 2.35 at 2.39

.74(long Jun put) + 1.52(long Oct call) – .51(short Jun call) – 2.35(short Oct put) = .60 credit received for the Jelly roll.

The proposed fee change would become operative on March 29, 2010.

The Exchange proposes to amend Footnote 6 of the Fees Schedule in conjunction with the proposed expansion of the strategy fee cap to include reversals, conversions and jelly roll strategies. Specifically, the Exchange proposes to amend Footnote 6 to clarify that the marketing fee will not

<sup>4</sup> In addition, the Exchange proposes to amend Footnote 13 of the Fees Schedule to clarify that "license fees" has the same meaning as "Surcharge Fees" and that the pass-through of Surcharge Fees is only applicable to the cap on dividend, merger and short stock interest strategies since the cap on reversals, conversions and jelly roll strategies excludes any option class on which the Exchange assesses the Surcharge Fee.

<sup>5</sup> See the options fee schedules of NYSE Amex, LLC and NYSE Arca, LLC.