

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58007; File No. SR-CBOE-2008-64)

June 24, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Amending CBOE Rules 5.3 and 5.4 to Enable the Listing and Trading of Options on Index-Linked Securities

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 June 19, 2008, the Chicago Board Options Exchange, Incorporated (“CBOE” or “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 substantially prepared by the Exchange. 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 revise CBOE Rules 5.3 and 5.4 to enable the listing and trading on the Exchange of options on Index-Linked Securities. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.cboe.com](http://www.cboe.com).

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

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

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 states that the purpose of the proposed rule change is to revise CBOE Rules 5.3 and 5.4 to enable the listing and trading of options on equity index-linked securities (“Equity Index-Linked Securities”), commodity-linked securities (“Commodity-Linked Securities”), currency-linked securities (“Currency-Linked Securities”), fixed income index-linked securities (“Fixed Income Index-Linked Securities”), futures-linked securities (“Futures-Linked Securities”), and multifactor index-linked securities (“Multifactor Index-Linked Securities”), collectively known as (“Index-Linked Securities”) that are principally traded on a national securities exchange and an “NMS stock” (as defined in Rule 600 of Regulation NMS under the Act).

Index-Linked Securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments, or market indexes of the foregoing (“Underlying Index” or “Underlying Indexes”). Index-Linked Securities are the non-convertible debt of an issuer that have a term of at least one year but not greater than thirty years. Despite the fact that Index-Linked Securities are linked to an underlying index, each trade as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options would apply to Index-Linked Securities. The Exchange does not propose any changes to rules pertaining to Index Options.

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

## Listing Criteria

The Exchange will consider listing and trading options on Index-Linked Securities provided the Index-Linked Securities meet the criteria for underlying securities set forth in CBOE Rule 5.3(a)-(b) and Interpretation and Policy .01 to Rule 5.3.

The Exchange proposes that Index-Linked Securities deemed appropriate for options trading represent ownership of a security that provides for the payment at maturity, as described below:

- Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities (“Equity Reference Asset”);
- Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity-Based Trust Shares or a basket or index of any of the foregoing (“Commodity Reference Asset”);
- Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares<sup>3</sup> or a basket or

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<sup>3</sup> See Interpretation and Policy .06 to CBOE Rule 5.3. The term “Currency Trust Shares” is defined as a security that: (a) is issued by a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity; (b) when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency; and (c) pays the beneficial owner interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust.

- index of any of the foregoing (“Currency Reference Asset”);
- Fixed Income Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more notes, bonds, debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (“Treasury Securities”), government-sponsored entity securities (“GSE Securities”), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing (“Fixed Income Reference Asset”);
  - Futures-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; or (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b) (“Futures Reference Asset”); and
  - Multifactor Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of any combination of two or more Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets or Futures Reference Assets (“Multifactor Reference Asset”).

For the purposes of Interpretation and Policy .13 to CBOE Rule 5.3, Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets, and Multifactor Reference Assets, would be collectively referred to as “Reference Assets.”

Index-Linked Securities must meet the criteria and guidelines for underlying securities set forth in Interpretation and Policy .01 to CBOE Rule 5.3, or the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset. In addition, the issuing company is obligated to issue or repurchase the securities in aggregation units for cash or cash equivalents satisfactory to the issuer of Index-Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

#### Continued Listing Requirements

Options on Index-Linked Securities would be subject to all Exchange rules governing the trading of equity options. The current continuing or maintenance listing standards for options traded on CBOE would continue to apply.

The Exchange proposes to establish Interpretation and Policy .16 to CBOE Rule 5.4 which would include criteria related to the continued listing of options on Index-Linked Securities.

Under the applicable continued listing criteria in proposed Interpretation and Policy .16 to CBOE Rule 5.4, options on Index Linked Securities initially approved for trading pursuant to proposed Interpretation and Policy .13 to CBOE Rule 5.3 may be subject to the suspension of opening transactions as follows: (1) non-compliance with the terms of Interpretation and Policy .13 to CBOE Rule 5.3; (2) non-compliance with the terms of Interpretation and Policy .01

to CBOE Rule 5.4, except that in the case of options covering Index-Linked Securities approved pursuant to Interpretation and Policy .13(3)(B) to CBOE Rule 5.3 that are redeemable at the option of the holder at least on a weekly basis, then option contracts of the class covering such Securities may only continue to be open for trading as long as the Securities are listed on a national securities exchange and are an “NMS stock” as defined in Rule 600 of Regulation NMS; (3) in the case of any Index-Linked Security trading pursuant to Interpretation and Policy .13 to CBOE Rule 5.3, the value of the Reference Asset is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

The Exchange represents that the listing and trading of options on Index-Linked Securities under Interpretation and Policy .13 to CBOE Rule 5.3 will not have any effect on the rules pertaining to position and exercise limits<sup>4</sup> or margin.<sup>5</sup>

The Exchange states that it will implement surveillance procedures for options on Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable. CBOE represents that these procedures will be adequate to properly monitor Exchange trading of options on these the securities and to deter and detect violations of Exchange rules.

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<sup>4</sup> See CBOE Rules 4.11 and 4.12.

<sup>5</sup> See CBOE Rule 12.3.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rules applicable to trading pursuant to generic listing and trading criteria, together with the Exchange's surveillance procedures applicable to trading in the securities covered by the proposed rules, serve to foster investor protection.

### 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

The Exchange states that written comments on the proposed rule change were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which

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

the Exchange consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

The CBOE has requested accelerated approval of this proposed rule change prior to the 30<sup>th</sup> day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

#### 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-CBOE-2008-64 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-2008-64. 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

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<sup>7</sup> 15 U.S.C. 78f(b)(5).

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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 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; 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-2008-64 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Acting Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).