

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61270; File No. SR-CBOE-2009-099)

December 31, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit Concurrent Listing of \$2.50 and \$1 Strikes on MNX Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 23, 2009, 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 has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act, and Rule 19b-4(f)(1) thereunder, which renders the proposal effective upon filing with the Commission.³ 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 clarify that the Exchange may concurrently list \$2.50 and \$1 strikes on Mini-Nasdaq-100 Index ("MNX") options, and that certain listing parameters only apply to \$1 strikes on MNX options. The text of the rule proposal is available on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(1).

Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, 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 the proposed rule change is to clarify that the Exchange may concurrently list \$2.50 and \$1 strikes on Mini-Nasdaq-100 Index ("MNX") options, and that certain listing parameters only apply to \$1 strikes on MNX options. The Exchange believes that the availability of \$2.50 and \$1 strike price intervals in MNX option series will provide investors with greater flexibility by allowed them to establish positions that are better tailored to meet their investment objectives.

Since November 2008, the Exchange has had the ability to list \$1 strikes on MNX options.⁴ In connection with the proposal to permit \$1 strikes for MNX options, the

⁴ See Securities Exchange Act Release No. 58924 (November 10, 2008), 73 FR 68464 (November 18, 2008) (SR-CBOE-2008-96) (order approving rule change to permit \$1 strikes for MNX options).

Exchange established parameters subject to which \$1 strikes may be added and delisted. For example, the number of initial series that the Exchange may add is limited to 11 series.⁵ Also, the total number of additional series that may be added for \$1 strikes is sixty (60) per expiration month for each series in MNX options.⁶

Similar parameters do not exist with regard to the listing of \$2.50 strikes, and the Exchange now seeks to clarify that the parameters adopted with the proposal to permit \$1 strikes for MNX options do not apply to the listing of \$2.50 strikes for MNX options.⁷ In addition, the Exchange is proposing to codify a bracketing provision that prohibits the Exchange from listing strike prices with \$1 intervals within \$0.50 of an existing strike price in the same series. This bracketing provision is identical to an existing provision in effect for the \$1 Strike Program, which permits the concurrent listing of \$2.50 and \$1 strikes.

2. Statutory Basis

The Exchange believes this rule proposal is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act⁹ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect

⁵ See Interpretation and Policy .01(j)(i).

⁶ See Interpretation and Policy .01(j)(ii) to Rule 24.9.

⁷ See Interpretation and Policy .01(a) to Rule 24.9.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

investors and the public interest by allowing the Exchange to list MNX options at \$2.50 and \$1 strike price intervals.

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

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

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act¹⁰ and Rule 19b-4(f)(1) thereunder,¹¹ because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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:

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i).

¹¹ 17 CFR 240.19b-4(f)(1).

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. Please include File Number SR-CBOE-2009-099 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-2009-099. 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 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 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-CBOE-2009-099 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).