

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62658; File No. SR-CBOE-2009-075)

August 5, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Establish a Pilot Program to List P.M.-Settled End of Week and End of Month Expirations for Options on Broad-Based Indexes

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 October 14, 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 and II below, which Items have been prepared by the Exchange. On May 3, 2010, the Exchange filed Amendment 1 to the proposed rule change, and on July 30, 2010, the Exchange filed Amendment 2 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment Nos. 1 and 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE requests approval to establish a pilot program that would permit P.M.-settled options on broad-based indexes that expire on: (a) any Friday of the month, other than the third Friday-of-the-month (“End of Week Expirations”), and (b) the last trading day of the month (“End of Month Expirations”). The text of the rule proposal 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’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment 2 replaces Amendment 1 and the original filing in their entireties.

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

Amendment 2 replaces Amendment 1 and the original filing in their entireties. The purpose of Amendment 2 is to broaden the definition of End of Week Expirations to include any Friday of the month, other than the third Friday-of-the-month.

The purpose of this filing is to establish a pilot program that would permit P.M.-settled options on broad-based indexes to expire on (a) any Friday of the month, other than the third Friday-of-the-month ("End of Week Expirations" or "EOWs"), and (b) the last trading day of the month ("End of Month Expirations" or "EOMs").⁴ For example, if EOWs and EOMs were currently listed, the expiration dates for October 2010 would be: October 1 (EOW), October 8 (EOW), October 15 (standard), October 22 (EOW) and October 29 (EOM).⁵ Under the End of Week/End of Month Expirations Pilot Program ("Program"), EOWs and EOMs will be permitted

⁴ If the last trading day of the month is a Friday, the Exchange will list an End of Month expiration series and not an End of Week expiration.

⁵ See Rule 24.9(a)(2) for specific rule governing the expiration months that may be listed for index options. CBOE does not intend to list EOWs or EOMs that would expire on Exchange holidays.

on any broad-based index that is eligible for regular options trading. EOWs and EOMs will be cash-settled and have European-style exercise.

The proposal will become effective on a pilot basis for a period fourteen months to commence on the next full month after approval is received to establish the Program. If the Exchange were to propose an extension of the Program or should the Exchange to propose to make the Program permanent, then the Exchange would submit a filing proposing such amendments to the Program. Any positions established under the Program would not be impacted by the expiration of the Pilot. For example, if the Exchange lists an EOW or EOM expiration that expires after the Program expires (and is not extended) then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.⁶

To implement the Pilot as described above, the Exchange is proposing to add new subparagraph (e) to Rule 24.9 to expressly provide the Exchange with the ability to list P.M.-settled EOWs and EOMs on broad-based indexes eligible for options trading. The amendment to Rule 24.9 will also set forth that the duration of the Program will be effective for a period of fourteen months from the next full month from approval.

EOMs and EOWs will be subject to the same rules that currently govern the trading of traditional index options, including sales practice rules, margin requirements, and floor trading procedures. Contract terms for EOWs and EOMs will be similar to regular index options, with one general exception: the exercise settlement value will be based on the index value derived from the closing prices of component stocks.

⁶ The Exchange intends to address this point in a circular to members should the Exchange receive approval to establish the Program.

Since EOWs and EOMs will be a new type of series and not a new class, the Exchange proposes that EOWs and EOMs on the same broad-based index (e.g., of the same class) shall be aggregated for position limits (if any) and any applicable reporting and other requirements.⁷ The Exchange is proposing to add “EOWs” and “EOMs” to Rule 24.4(b) to reflect the aggregation requirement. This proposed aggregation is consistent the aggregation requirements for other types of option series (e.g., QOS, QIXs) that are listed on the Exchange and which do not expire on the customary “third Saturday.”⁸

Annual Program Report

As part of the Program, the Exchange will submit a Program report to the Securities and Exchange Commission (“Commission”) at least two months prior to the expiration date of the Program (the “annual report”). As described below, the annual report will contain an analysis of volume, open interest and trading patterns. In addition, for series that exceed certain minimum open interest parameters, the annual report would provide analysis of index price volatility and, if needed, share trading activity. The annual report will be provided to the Commission on a confidential basis.

Analysis of Volume and Open Interest

For EOW and EOM series, the annual report will contain the following volume and open interest data for each broad-based index overlying EOW and EOM options:

⁷ See e.g., Rule 4.13, Reports Related to Position Limits and Interpretation and Policy .03 to Rule 24.4 which sets forth the reporting requirements for certain broad-based indexes that do not have position limits.

⁸ As will be discussed in detail below, the Exchange trades structured quarterly and short term options. FLEX Options do not become fungible with subsequently introduced Non-FLEX structured quarterly and short term options. See Securities Exchange Act Release No. 59675 (April 1, 2009), 74 FR 15794 (April 7, 2009) (SR-OCC-2009-05). Because of the similarities between EOW and EOM expirations and existing structured quarterly and short term options, FLEX Options will similarly not become fungible with EOW and EOM expirations listed for trading.

- (1) Monthly volume aggregated for all EOW and EOM series,
- (2) Volume in EOW and EOM series aggregated by expiration date,
- (3) Month-end open interest aggregated for all EOW and EOM series,
- (4) Month-end open interest for EOM series aggregated by expiration date and week-ending open interest for EOW series aggregated by expiration date,
- (5) Ratio of monthly aggregate volume in EOW and EOM series to total monthly class volume, and
- (6) Ratio of month-end open interest in EOM series to total month-end class open interest and ratio of week-ending open interest in EOW series to total week-ending open interest.

In addition, the annual report will contain the information noted above for standard Expiration Friday, AM-settled series, if applicable⁹, for the period covered in the pilot report as well as for the six-month period prior to the initiation of the pilot.

Upon request by the SEC, CBOE will provide a data file containing: (1) EOW and EOM option volume data aggregated by series, and (2) EOW week-ending open interest for expiring series and EOM month-end open interest for expiring series.

Monthly Analysis of EOW & EOM Trading Patterns

In the annual report, CBOE also proposes to identify EOW and EOM trading patterns by undertaking a time series analysis of open interest in EOW and EOM series aggregated by expiration date compared to open interest in near-term standard Expiration Friday A.M.-settled series in order to determine whether users are shifting positions from standard series to EOW and EOM series. Declining open interest in standard series accompanied by rising open interest in EOW and EOM series would suggest that users are shifting positions.

⁹ Standard OEX & XEO option series are P.M.-settled.

Provisional Analysis of Index Price Volatility and Share Trading Activity

For each EOW and EOM Expiration that has open interest that exceeds certain minimum thresholds, the annual report will contain the following analysis related to index price changes and, if needed, underlying share trading volume at the close on expiration dates:

(1) a comparison of index price changes at the close of trading on a given expiration date with comparable price changes from a control sample. The data will include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the CBOE Volatility Index ("VIX"), will be provided; and

(2) if needed, a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money EOW and EOM expirations. The data, if needed, will include a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for selecting the component securities, and sample periods will be determined by the Exchange and the Commission.

Discussion

In support of this proposal, the Exchange states that it trades other types of series and FLEX Options¹⁰ that expire on different days than regular options and in some cases have P.M.-

¹⁰ See Securities Exchange Act Release No. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR-CBOE-2009-087) (order approving rule change to establish a pilot program to modify FLEX option exercise settlement values and minimum value

settlement. For example, since 1993 the Exchange has traded Quarterly Index Expirations (“QIXs”) that are cash-settled options on certain broad-based indexes which expire on the first business day of the month following the end of a calendar quarter and are P.M.-settled.¹¹ The Exchange also trades Quarterly Option Series (“QOS”) that overlie exchange traded funds (“ETFs”) or indexes which expire at the close of business on the last business day of a calendar quarter and are P.M.-settled.¹² The Exchange has experience with these special dated options and has not observed any market disruptions resulting from the P.M.-settlement feature of these options. The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settlement EOM expirations, which will effectively permit the Exchange to fill in the remaining eight calendar months with series that expire on the last trading day of the month.

The Exchange trades Short Term Option Series that may overlie any security approved for listing and trading on the Exchange and which are opened for trading on any Friday that is a business day and that expire on the next Friday that is a business day.¹³ These existing Short Term Option Series, however, are A.M.-settled and only have a contract duration of a single week. The Exchange seeks to introduce P.M.-settled EOW expirations to provide market participants with a tool to hedge special events and to reduce the premium cost of buying protection. Currently, the Exchange believes that market participants may be paying for more protection than needed if they are seeking to hedge weekend or special event risk that occurs. The Exchange believes that an EOW expiration would allow market participants to purchase an

sizes).

¹¹ See Rule 24.9(c).

¹² See Rules 5.5(e) and 24.9(a)(2)(B).

¹³ See Rules 5.5(d) and 24.9(a)(2)(A).

option based on their needed timing and allow them to tailor their investment or hedging needs more effectively. In addition, because P.M.-settlement permits trading throughout the day on the day the contract expires, the Exchange believes this feature will permit market participants to more effectively manage overnight risk and trade out of their positions up until the time the contract settles.

Finally, the Exchange considers this proposal to be a competitive rule filing. Specifically, a futures exchange has the ability to list options on broad-based index futures that expire on the first and second Fridays of the month. In addition, the same futures exchange lists end-of-month options on broad-based index futures that expire on the last trading day of the month.¹⁴ As a result, that futures exchange is able to provide four expirations for each month for certain broad-based indexes, on which CBOE similarly trades security options.¹⁵ The Exchange believes that the introduction of EOW and EOM expirations will enable the Exchange to compete more effectively with the futures markets.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act¹⁶ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to

¹⁴ The options have European-style exercise and at expiration settle into a futures contract.

¹⁵ Those indexes are the S&P 500 Index (“SPX”) and the Mini-SPX Index.

¹⁶ 15 U.S.C. 78s(b)(1).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest interest [sic], by expanding the ability of investors to hedge risks against market movements stemming from economic releases or market events that occur throughout the month. Accordingly, the Exchange believes that EOWs and EOMs should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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. Please include File No. SR-CBOE-2009-075 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 No. SR-CBOE-2009-075. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 No. SR-CBOE-2009-075 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.¹⁹

Florence E. Harmon
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).