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August 23, 2013

Via Electronic Mail

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090
comments@sec.gov

Re: Comment Letter on File No. SR-ISE-2013-42

Dear Ms. Murphy:

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") hereby submits comments on the proposed rule change of International Securities Exchange, LLC ("ISE"), rule filing number SR-ISE-2013-42. In its filing, ISE proposes to list and trade options on the Nations VolDex index ("VolDex index").[1]

Over two decades ago, CBOE developed the CBOE Volatility Index ("VIX"), which has become the widely followed industry measure of market volatility. As the developer and calculator of VIX, CBOE has specialized knowledge regarding volatility and has reviewed how the VolDex index is constructed and how the settlement value will be determined.

The VolDex Index is Not a Broad-Based Security Index

The ISE filing describes that the spot calculation of the VolDex index would be comprised of a total of (at most) four component SPDR S&P ETF ("SPY") put options and that the settlement value for the proposed VolDex index options would be calculated using the opening NBBO quotations of those component options. Contrary to ISE's unsupported characterization, the VolDex index is not a broad-based security index and should not be treated as such for regulatory purposes.

CBOE notes that the component weights of the four put options used to calculate the VolDex index can become highly concentrated in just one or two component options depending on the time to expiration and the relationship of the forward SPY price to the strike prices of the component options. This potential concentration of weight in a small

[1] Securities Exchange Act Release No. 70059 (July 29, 2013), 78 FR 47041 (August 2, 2013) (notice of SR-ISE-2103-42).

number of components used to calculate a settlement value demonstrates that the proposed product is not properly characterized as a broad-based security index.

For example, the proposed expiration date for VolDex index options is the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month. On that day, the exercise and settlement value would be calculated at 9:30 a.m. (New York time). At that time, the near-term SPY options used in the calculation would have approximately 30 days to expiration[2] and would account for practically all of the weight of the exercise and settlement value for VolDex index options. In fact, the VolDex index formula ensures that the weight of the "precisely ATM" near-term put option (comprising two SPY put options) would actually be greater than 100% at that time.[3] As a result, the exercise and settlement value for VolDex index options could potentially be dominated by a single component security. Because of these concentration issues, CBOE believes that the characterization of the VolDex index as a broad-based index is inaccurate and misleading. Accordingly, the ISE filing fails to comply with the Section 6(b) of the Securities Exchange Act of 1934 because it does not address in specific detail how the filing is "designed to prevent fraudulent and manipulative acts and practices."

Consistent Regulatory Treatment for Position Limits

ISE's suggestion that because there are no position limits for physically-settled SPY options (on a pilot basis) there should be no position limits for VolDex index options is equally flawed. Also, as demonstrated above, the position limit regime for some broad-based security index options (i.e., none) is not supported here because the proposed options are not on a broad-based security index. Instead, the more analogous comparison for appropriate regulatory treatment is Alpha Index options that the SEC approved for trading on NASDAQ OMX PHLX, LLC in 2011.

Alpha Index options are cash-settled index options that measure the relative performance of two single securities (a target component and a benchmark component) on which traditional options are physically-settled. Notably all approved Alpha Index pairings include SPY as the benchmark component. Options on Alpha Index pairings in which the target component is an exchange-traded fund have a position limit of 15,000 contracts[4] and options all other approved pairings in which the target component is a single stock have a position limit of 60,000 contracts.[5] CBOE believes that the position

[2] At 9:30 a.m. (New York time), the near-term SPY options used in the VolDex index calculation would have exactly 43,605 minutes to expiration (30 days *plus* 6 hours and 45 minutes, in order to account for the PM-settlement of SPY options).

[3] The "precisely ATM" near-term put would have a weight of 101% and the "precisely ATM" next-term put would have a weight of -1%.

[4] See Securities Exchange Act Release No. 65149 (August 17, 2011), 76 FR 52729 (August 23, 2011) (Order Granting Approval of Proposed Rule Change Relating to Alpha Index Options) (SR-Phlx-2011-89).

[5] See Securities Exchange Act Release No. 63860 (February 7, 2011), 76 FR 7888 (February 11, 2011) (Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of Alpha Index Options) (SR-Phlx-2010-176).

limits established for Alpha Index options (all of which include SPY as one of the two securities included in the index) are the appropriate comparison for determining the regulatory treatment of VolDex index options. Accordingly, the Exchange urges the Commission to extend consistent regulatory treatment to VolDex index options by requiring ISE to establish position limits for VolDex index options in accordance with the Alpha Index option precedent.

Conclusion

As ISE states in the statutory basis section to its filing, volatility-focused products have become prominent over the past few years and offer market participants new opportunities to hedge and manage risk. However, the desire to compete should not be a reason to shrug away appropriate regulatory consideration for products that are inaccurately characterized by the proposing exchange. CBOE believes that the SEC should examine and consider the ISE proposal for what it is and not for what ISE erroneously purports it to be. Accordingly, the SEC should disapprove ISE's filing or, at a minimum, require extensive revision to address the regulatory comments raised in this letter.

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CBOE appreciates the opportunity to provide these comments. Should you require any further information, please contact Jenny Golding, Senior Attorney, at [redacted].

Sincerely,

Edward T. Tilly
Chief Executive Officer
Chicago Board Options Exchange, Incorporated

cc: Heather Seidel (SEC)
Richard Holley (SEC)
John Roeser (SEC)