SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76469; File No. SR-CBOE-2015-077)

November 18, 2015

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change Relating to Margin Requirements

I. Introduction

On September 22, 2015, Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to margin requirements. The proposed rule change was published for comment in the Federal Register on October 8, 2015.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

CBOE proposes to amend its rules related to margin requirements. Rule 12.3 sets forth margin requirements, and certain exceptions to those requirements, applicable to security positions of Trading Permit Holders' customers. Rule 12.3(c)(5)(C)(2) currently requires no margin for covered calls and puts. Specifically, that rule provides the following:

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 76068 (October 2, 2015), 80 FR 60941 ("Notice").

- No margin need be required in respect of an option contract, stock index warrant, currency index warrant or currency warrant carried in a short position which is covered by a long position in equivalent units of the underlying security in the case of a call (covered call), or a short position in equivalent units of the underlying security in the case of a put (covered put).[4]

- An underlying stock basket[5] may serve as cover for an option contract or warrant on a market index carried short (subject to the same requirements for computing margin).

- No margin is required in respect of a call option on a Standard and Poor's 500 (S&P 500) market index carried in a short position where there is carried for the same account a long position in an underlying open-end index mutual fund (which will be specifically designated by the Exchange) having an aggregate market value at least equal to the underlying value of the S&P 500 contracts to be covered.

According to CBOE, the proposed rule change makes some nonsubstantive

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4 See Notice, supra note 3, at 60942. CBOE notes, in computing margin on such a position in the underlying security, (a) in the case of a call, the current market value to be used shall not be greater than the exercise price and (b) in the case of a put, margin will be the amount required by Rule 12.3(b)(2), plus the amount, if any, by which the exercise price of the put exceeds the current market value of the underlying.

5 See Notice, supra note 3, at 60942. An "underlying stock basket" means a group of securities that includes each of the component securities of the applicable index and which meets the following conditions: (a) the quantity of each stock in the basket is proportional to its representation in the index, (b) the total market value of the basket is equal to the underlying index value of the index options or warrants to be covered, (c) the securities in the basket cannot be used to cover more than the number of index options or warrants represented by that value and (d) the securities in the basket shall be unavailable to support any other option or warrant transaction in the account. See also Rule 12.3(a)(7).

changes to Rule 12.3(c)(5)(C)(2). CBOE represents, the proposed rule change letters the provisions listed in the first two bulleted paragraphs above to become subparagraphs (2)(a) and (b) and moves part of the provision in the first bulleted paragraph to proposed subparagraph (2)(c) (as discussed below, the proposed rule change deletes the third bulleted paragraph above). CBOE further represents, the proposed rule change revises the language to be consistent throughout these provisions, including clarifying that the underlying security or one of the other permissible offsets must be carried in the same account as the option position. CBOE notes, the proposed rule change also makes the language more plain English, eliminates repetitive language, and inserts a missing space in proposed subparagraph (b).

CBOE states, the proposed rule change adds circumstances in which covered calls and puts require no margin. According to CBOE, the proposed rule change applies the provision in proposed subparagraph (b) to index mutual funds, index portfolio receipts ("IPRs"),[6] and index portfolio shares ("IPSs"),[7] in addition to underlying stock baskets,

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6 See Notice, supra note 3, at 60942. The term "index portfolio receipts" or "IPRs" means securities that (a) represent an interest in a unit investment trust ("UIT") which holds the securities that comprise an index on which a series of IPRs is based; (b) are issued by the UIT in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock plus a cash amount; (c) when aggregated in the same specified minimum number, may be redeemed from the UIT which will pay to the redeeming holder the stock and cash then comprising the Portfolio Deposit; and (d) pay holders a periodic cash payment corresponding to the regular cash dividends or distributions declared and paid with respect to the component securities of the stock index on which the IPRs are based, less certain expenses and other charges as set forth in the UIT prospectus. IPRs are "UIT interests" within the meaning of the CBOE Rules. See also CBOE Rule 1.1, Interpretation and Policy .02.

7 See Notice, supra note 3, at 60942. The term "index portfolio shares" or "IPSs" means securities that (a) are issued by an open-end management investment company based on a portfolio of stocks or fixed income securities designed to provide investment results that correspond generally to the price and yield

based on the same index underlying the index option and having a market value at least equal to the aggregate current index value.[8] IPRs and IPSs are commonly referred to as exchange-traded funds ("ETFs"). CBOE notes, the proposed rule change also deletes the provision that provides no margin is required in respect of options on a Standard and Poor's 500 (S&P 500) market index carried in a short position where there is carried for the same account a long position in the underlying open-end index mutual fund having an aggregate market value at least equal to the underlying value of the S&P 500 contracts to be covered.[9] CBOE further notes, proposed subparagraph (b) extends the same margin exception to any index option offset by a position in a mutual fund based on the same underlying index, making this current provision duplicative.

CBOE states that index ETFs and mutual funds function in a similar manner to underlying stock baskets, as they are intended to replicate the performance of their underlying market indexes. CBOE believes, the types and diversity of products available

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performance of a specified foreign or domestic stock index or fixed income securities index; (b) are issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified number of shares of stock and/or a cash amount, or a specified portfolio of fixed income securities and/or a cash amount, with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end management investment company which will pay to the redeeming holder stock and/or cash, or a specified portfolio of fixed income securities and/or cash with a value equal to the next determined net asset value. See also CBOE Rule 1.1, Interpretation and Policy .03.

8 See Notice, supra note 3, at 60942. The term "aggregate current index value" means the current index value times the index multiplier. See also CBOE Rule 12.3, Interpretation and Policy .07.

9 See Notice, supra note 3, at 60942. CBOE notes, the proposed rule change also deletes the requirement for CBOE to specifically designate funds, as it thinks this is no longer necessary due to the continued increase in availability of these types of products, as discussed below.

on the market that track indexes continues to increase and provide additional investment and hedging opportunities. CBOE also believes while an ETF or mutual fund may not meet the definition of an underlying stock basket (for example, some ETFs have a sampling of the securities that comprise the underlying index), it essentially has the same purpose as an underlying stock basket for investors. Therefore, CBOE represents, it closely tracks an underlying index, and thus can function as an offsetting position to an index option overlying the same index in the same way as an underlying stock basket.[10]

According to CBOE, the Board of Governors of the Federal Reserve System ("FRB") previously indicated that no margin would be required if an index option (on a broad-based stock index with at least a 99% correlation with the S&P 500 index) is covered by an offsetting position in S&P Index Depositary Receipts (SPDRS), but rather such SPDR positions would be treated as cover in accordance with Section 220.5(c)(3) of Regulation T.[11] CBOE and another exchange later afforded the same margin treatment to

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[10] See Notice, supra note 3, at 60943. The Exchange notes that current federal net capital rules that apply to options define a qualified stock basket to mean a set or basket of stock positions which represents no less than 50% of the capitalization for a high-capitalization or non-high-capitalization diversified market index or no less than 95% of the capitalization of a narrow-based index. Those rules require positions in index options be grouped with related instruments within the option's class and qualified stock baskets in the same index. See also 17 CFR 240.15c3-1a(b)(1)(i)(D) and (ii). Similar to a qualified stock basket, while an ETF or mutual fund may not hold every stock included in the underlying market index, its holdings are intended to track the index.

[11] See Notice, supra note 3, at 60943. See Letter dated February 1, 1993 from Michael J. Schoenfeld, FRB, to James McNeil, American Stock Exchange ("Amex"); see also Letter dated August 19, 1992 from James M. McNeil, Amex, to Sharon Lawson, Commission, and Letter dated January 14, 1993 from James M. McNeil, Amex, to Laura M. Homer, FRB. The section of Regulation T referenced in these letters currently corresponds to Section 220.4(b)(4), which provides margin requirements when stock is used as cover for short option positions.

options on the Dow Jones Industrial Average (DJIA) covered by units of the DIAMONDS Trust held in the same account.[12] CBOE notes, based on this previous guidance from the FRB and the Commission, and in conjunction with the Exchange's current rules, CBOE has applied this margin treatment to short index option positions where there are offsetting positions in an ETF that tracks the same underlying index held in the same margin account (which treatment the Exchange has announced in Regulatory Circulars).[13] CBOE believes the proposed rule change is consistent with these previous findings and applies this margin treatment generally to all ETFs and mutual funds that overly market indexes, in the same manner that the rules currently apply to underlying stock baskets. Given that the Exchange regularly lists new products, including index options, the Exchange believes it is appropriate to have a more general rule related to margin on these index option products that applies in the same manner rather than identifying this margin treatment in Regulatory Circulars.

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12 See Notice, supra note 3, at 60943. See Letter dated December 3, 1997 from James M. McNeil, Amex, to Scott Holz, FRB, and Letter dated January 8, 1998 from Scott Holz, FRB to James M. McNeil, Amex; see also Letter dated December 16, 1997 from Richard Lewandowski, CBOE, to Mr. Michael Walinskas, Commission. There was no objection from the FRB or the Commission to Amex's or CBOE's extension of the margin treatment previously provided to SPDRS to DIAMONDS.

13 See Notice, supra note 3, at 60943. See also Regulatory Circulars RG99-09 (permitting SPDRS and DIAMONDS to cover short positions of options on the S&P 500 ("SPX options") and on the DJIA (DJX), respectively); RG00-171 (permitting units of iShares S&P 100 Index Fund to cover short positions of options on the S&P 100 Index (OEX)); RG01-119 (permitting Nasdaq-100 Index Tracking Shares to cover short positions of options on the Nasdaq-100 Shares (QQQ), the Nasdaq 100 Index (NDX) or the Mini-Nasdaq 100 Index (MNX); RG02-110 (permitting units of the iShares S&P 500 Fund (IVV) to cover short SPX option positions); and RG07-126 (permitting units of the iShares Russell 200 Index Fund (IWM) to cover short positions of options on the Russell 2000 index (RUT)).

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Commission believes that providing for a specific margin treatment related to covered puts and calls to apply to all index options in the same manner will promote just and equitable principles of trade because stock baskets, ETFs and mutual funds that trade a reference index can generally provide the same economic function as a security underlying an option.

Finally, the Commission believes the non-substantive technical changes will benefit investors by offering more clarity with respect to the margin rules by providing for more consistent and plain English language in the rule.

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14 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

15 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR-CBOE-2015-077) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett
Deputy Secretary

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30-3(a)(12).