

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56801; File No. SR-CBOE-2007-125)

November 16, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change and Amendment No. 2 Thereto Relating to the \$1 Strike Pilot Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 31, 2007, 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. On November 14, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The Exchange subsequently withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change on November 15, 2007. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

CBOE proposes to amend its rules relating to the \$1 Strike Pilot Program (“Pilot Program”).³ The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and www.cboe.com.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission approved the Pilot Program on June 5, 2003. See Securities Exchange Act Release No. 47991 (June 5, 2003), 68 FR 35243 (June 12, 2003) (SR-CBOE-2001-60). The Pilot Program has been subsequently extended through June 5, 2008. See Securities Exchange Act Release Nos. 49799 (June 3, 2004), 69 FR 32642 (June 10, 2004) (SR-CBOE-2004-34) (extending the Pilot Program through June 5, 2005); 51771 (May 31, 2005), 70 FR 33228 (June 7, 2005) (SR-CBOE-2005-37) (extending the Pilot Program through June 5, 2006); 53805 (May 15, 2006), 71 FR 29690 (May 23, 2006)

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 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 purpose of the proposed rule change is to expand the Pilot Program and to request permanent approval of the Pilot Program. The Pilot Program currently allows CBOE to select a total of 5 individual stocks on which option series may be listed at \$1 strike price intervals.⁴ In order to be eligible for selection into the Pilot Program, the underlying stock must close below \$20 in its primary market on the previous trading day. If selected for the Pilot Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$20, but no \$1 strike price may be

(SR-CBOE-2006-31) (extending the Pilot Program through June 5, 2007); and 55673 (April 26, 2007), 72 FR 24646 (May 3, 2007) (SR-CBOE-2007-38) (extending the Pilot Program through June 5, 2008).

⁴ Although the Pilot Program generally allows CBOE to select a total of 5 individual stocks on which option series may be listed at \$1 strike price interval, the Pilot Program was amended to provide that CBOE can designate no more than 4 individual stocks for inclusion in the Pilot Program at the same time there are strike prices listed for \$1 intervals on Mini-SPX options in accordance with Interpretation and Policy .11 to CBOE Rule 24.9. If CBOE decides to discontinue listing Mini-SPX option series at \$1 strike price intervals, CBOE would again be free to select up to 5 option classes for inclusion in the Pilot Program. See Securities Exchange Act Release No. 52625 (October 18, 2005), 70 FR 61479 (October 24, 2005) (SR-CBOE-2005-81) (providing that as long as there are open Mini-SPX option series listed at \$1 strike price intervals, the Exchange would be required to surrender one of its five selections under the Pilot Program).

listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day. The Exchange also may list \$1 strikes on any other option class designated by another securities exchange that employs a similar Pilot Program under their respective rules. The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any class selected for the Pilot Program. The Exchange also is restricted from listing any series that would result in strike prices being \$0.50 apart.

The Exchange proposes to amend Interpretation and Policy .01 to CBOE Rule 5.5 to expand the Pilot Program and allow it to select a total of 10 individual stocks on which option series may be listed at \$1 strike price intervals. Additionally, CBOE proposes to expand the price range on which it may list \$1 strikes from \$3 to \$50. The existing restrictions on listing \$1 strikes would continue, *i.e.*, no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and CBOE is restricted from listing any series that would result in strike prices being \$0.50 apart. In addition, because the Pilot Program has been very successful by allowing investors to establish equity options positions that are better tailored to meet their investment objectives, CBOE requests that the Pilot Program be approved on a permanent basis.

As stated in the Commission order approving CBOE's Pilot Program and in the subsequent extensions of the Pilot Program,⁵ CBOE believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower priced stocks by allowing investors to establish equity options positions that are better tailored to meet their investment

⁵ See supra note 3.

objectives. Indeed, member firms representing customers have repeatedly requested that CBOE seek to expand the Pilot Program, both in terms of the number of classes which can be selected and the range in which \$1 strikes may be listed.

With regard to the impact on systems capacities, CBOE's analysis of the Pilot Program shows that the impact on CBOE's, OPRA's, and market data vendors' respective automated systems has been minimal. Specifically, in March 2007, CBOE states that the 21 classes participating in the Pilot Program industry-wide accounted for 12,950,404 average quotes per day or 1.20% of the industry's 337,744,725 average quotes per day. The 21 classes averaged 412,007 contracts per day or 3.96% of the industry's 10,412,091 average contracts per day. The 21 classes involved totaled 2,754 series or 1.80% of all series listed.⁶ CBOE notes that these quoting statistics may overstate the contribution of \$1 strike prices because these figures also include quotes for series listed in intervals higher than \$1 (i.e., \$2.50 strikes) in the same option classes. Even with the non-\$1 strike series quotes included in these figures, CBOE believes that the overall impact on capacity is still minimal. CBOE represents that it has sufficient capacity to handle an expansion of the Pilot Program, as proposed.

Finally, the Exchange proposes to make a corresponding change to Interpretation and Policy .11(e) to CBOE Rule 24.9, which pertains to the expansion of the Pilot Program. In addition, CBOE proposes to make a technical correction to paragraph (a) of Interpretation and Policy .01 to CBOE Rule 5.5 where it references "Interpretation and Policy .14 to Rule 24.9." Paragraph (a) of Interpretation .01 should reference Interpretation .11 to Rule 24.9.

⁶ See Securities Exchange Act Release No. 55673 (April 26, 2007), 72 FR 24646 (May 3, 2007) (SR-CBOE-2007-38) (Pilot Program report).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

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 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 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 CBOE consents, the Commission will:

- A. by order approve such proposed rule change, or

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

- 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 Number SR-CBOE-2007-125 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2007-125. 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 10:00 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-2007-125 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.⁹

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).