

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57436; File No. SR-CBOE-2008-18)

March 5, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Delayed Start Option Series™

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 25, 2008, 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 CBOE. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

The Exchange proposes to amend its rules pertaining to Delayed Start Option Series™ (“DSOs”) in order to: (i) change the exercise price increment parameters from the current maximum of one-eighth (0.125) to one (1.00); and (ii) provide that the applicable market model parameters (e.g., trading platform, eligible categories of Market-Maker participants, allocation algorithms and other trading parameters) for the DSOs of a given index options class may be

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

determined separate from the market model parameters applicable to the non-DSOs of the same index options class, and that the applicable DSO parameters may differ before and after the strike setting date. 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.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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 Exchange recently received approval to list and trade a new type of security index option product called DSOs.<sup>5</sup> DSOs are identical to other options series that currently trade except that, instead of specifying a specific index value number for the exercise price, the exercise price is specified in terms of a specific method for fixing such a number. This method provides that the strike price is fixed based on the closing value of the underlying index on a predetermined date prior to their expiration (the "strike setting date"). The particular strike setting date and method for fixing the exercise price is specified prior to the time the DSO is

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<sup>5</sup> See Securities Exchange Act Release No. 56855 (November 28, 2007), 72 FR 68610 (December 5, 2007)(SR-CBOE-2006-90).

initially opened for trading. In addition, the particular expiration date is also specified prior to the time the DSO is initially opened for trading.

Before the initiation of trading in DSOs, the Exchange wishes to make certain changes to Rule 24.9(d) that will accommodate the integration of DSOs into the Exchange's various market models and systems. First, the Exchange is proposing to change the exercise price increment parameters from the current maximum of one-eighth (0.125) to one (1.00) (amounts greater than or equal to 0.50 would round up). By way of background, on the strike setting date, the DSO is assigned an at-the-money, in-the-money or out-of-the-money strike price. Under the current rules, a DSO's exercise price is fixed based on the closing value of the underlying index on the strike setting date and rounded to the nearest 0.125 value or such smaller value as the Exchange may designate at the time the DSO is listed, provided that the value cannot be smaller than 0.01.<sup>6</sup> For example, using a one-eighth interval, if the particular index underlying a DSO closes at 1004.12 on the strike setting date, an at-the-money DSO would be assigned a strike price of 1004.125.<sup>7</sup> In order to accommodate current system limitations relating to the rounding of strike prices for DSOs, the Exchange is proposing to revise the exercise price parameter from a maximum increment of 0.125 to 1.00. Under this revision, the DSO in the example above would

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<sup>6</sup> Because of system limitations related to the rounding of strike prices for DSOs, the Exchange had previously planned to round DSO exercise prices to the nearest 0.125. However, should the system functionality permit it in the future, the Exchange built the flexibility into its rules to be able to determine to round DSO exercise prices to a smaller value provided that the particular increment would be designated at the time the DSO is listed and that it would not be any smaller than 0.01. See Rule 24.9(d)(2)(ii).

<sup>7</sup> In-the-money and out-of-the-money DSOs trade in the exact same manner as at-the-money DSOs with the exception that the strike price would be set to a predetermined level either in- or out-of-the-money on strike setting date (e.g., 5% in-the-money, 5% out-of-the-money). For example, hypothetically, if the Exchange determines to list a 5% out-of-the-money DSO on the XYZ index and XYZ closes at 1000 on the strike setting date, the strike price would be established at 1050.

be assigned a strike price of 1004.00. The Exchange is currently working on system changes that would accommodate a smaller strike price increment, and the Exchange intends to move to smaller increments once those changes are complete. As indicated in the current rule text, should the system functionality permit it in the future, the Exchange may determine to round a DSO to a value smaller than 1.00, provided that in all cases the increment would be designated at the time a DSO is listed and would not change thereafter, and that it would not be any smaller than 0.01.<sup>8</sup>

Second, the Exchange is proposing to adopt a provision regarding the applicable market model (e.g., trading platform, eligible Market-Maker participants, allocation algorithms and other trading parameters) for DSOs. Under the existing rules, the particular market model parameters are generally determined on a class-by-class basis and, once established, CBOE also has the authority to make changes to the applicable market model parameters for a given class.<sup>9</sup> The proposed provision would provide that the Exchange may separately determine the appropriate market model (and changes thereto) for DSOs. This will provide the Exchange with more flexibility to formulate market models particular to the DSOs overlying a given index. Under this provision, the Exchange would be able to determine to use trading platforms (e.g., the CBOE Hybrid Trading System, Hybrid 2.0 Platform and Hybrid 3.0 Platform), eligible categories of Market-Maker participants (e.g., Designated Primary Market-Makers (“DPMs”), Lead Market-Makers (“LMMs”), Market-Makers and Remote Market-Makers (“RMMs”)), allocation algorithms (e.g., UMA, price-time, or pro-rata priority with public customer, participation entitlement and market turner overlays) and other trading parameters for the DSOs

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<sup>8</sup> See note 6, supra.

<sup>9</sup> See, e.g., Rules 6.2B, 6.13, 6.13A, 6.14, 6.45B, 6.53C, 6.74, 6.74A and 8.14.

of a given index options class that differ from the non-DSOs of the same class, and that differ for the periods before and after the DSO strike setting date. As indicated above, CBOE currently has the authority to change market model parameters now for standardized options.

For example, hypothetically, the non-DSOs of an options class overlying the XYZ index might trade on the Hybrid 3.0 Platform with an LMM market model. For the DSOs overlying the same XYZ index, the Exchange might determine to use the Hybrid Trading Platform with an LMM market model for the period from the initial listing to the strike setting date and then use the Hybrid 3.0 Platform with an LMM market model for the period from the strike setting date to expiration.<sup>10</sup>

To the extent the Exchange would determine to trade the DSOs of a given index option class on a trading platform that differs from the other series of that class, the Exchange is also proposing that a Market-Maker participant with an appointment in the overall index class may (but would not be required to) seek an appointment to those DSOs. Using the example above, a Market-Maker with an appointment in the XYZ index options may (but would not be required to) seek an appointment for the XYZ DSOs for the period from initial listing to the strike setting date.<sup>11</sup> To the extent that a Market-Maker participant does seek an appointment to trade DSOs

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<sup>10</sup> Thus, an LMM might be appointed to the XYZ DSOs from the initial listing to the strike setting date and another LMM appointed to the XYZ DSOs from the strike setting date to expiration. Alternatively, a DPM might be appointed to the XYZ DSOs during either period. These configurations would differ from the existing rules, which generally provide for the appointment of a DPM on a class basis or the appointment of an LMM(s) for a particular zone within a class on a monthly basis. See, e.g., Rules 8.14, 8.15A and 8.83.

<sup>11</sup> In this particular scenario, a market-making appointment in the DSOs would be optional. The Exchange believes it is reasonable to not require a Market-Maker participant's appointment (and related market-making obligations) in an index class to apply to the related DSOs to the extent the DSOs are traded on a different platform.

on a trading platform that differs from the other series of a class, there would be no additional seat “appointment cost” applicable to that DSO appointment under Rules 8.3 and 8.4.<sup>12</sup> Lastly, the applicable continuous electronic quoting obligations would apply to only those series that the Market-Maker participant is able to quote electronically.<sup>13</sup> Using the same example, the Market-Maker would be required to provide continuous electronic quotes for 60% of the DSOs allocated to it in accordance with Rule 8.7 while those DSOs trade on the Hybrid Trading Platform.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>14</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>15</sup> 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 perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

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<sup>12</sup> A seat appointment cost applies to each options class traded on the Exchange. The applicable costs can vary based on, among other things, whether the class is traded on the Hybrid Trading System, Hybrid 2.0 Platform or Hybrid 3.0 Platform. See Rules 8.3(c) and 8.4(d).

<sup>13</sup> For options trading on the Hybrid Trading System, Market-Makers and DPMs or LMMs, as applicable, are able to quote electronically. For options trading on the Hybrid 2.0 Platform, Market-Makers, RMMs and DPMs, e-DPMs or LMMs, as applicable, are able to quote electronically. For options trading on the Hybrid 3.0 Platform, only a single DPM or LMM, as applicable, is able to quote electronically. See, e.g., Rules 1.1(aaa) and 8.14.

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

CBOE does not believe that the proposed rule change will result in any burden on competition that is 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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

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

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied the five-day pre-filing notice requirement.

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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2008-18 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-2008-18. 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 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 Number SR-CBOE-2008-18 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.<sup>18</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).