

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71079; File No. SR-CBOE-2013-121)

December 16, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Short Term Option Series Program

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 December 11, 2013, Chicago Board Options Exchange, Incorporated (the “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. 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 Exchange Rules 5.5(d) and 24.9(a)(2)(A) to expand the Short Term Option Series Program. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 is proposing to amend Exchange Rules 5.5(d) and 24.9(a)(2)(A) to allow the Exchange to list 50 classes of options in the Short Term Option Series Program (the "Program" or "Weeklys Program")³; to list or add equity Weeklys within fifty percent (50%) above or below price of the underlying price of the security if the price of the underlying security is greater than \$20, or within one hundred percent (100%) above or below the price of the underlying security if the price of the underlying security is less than or equal to \$20; and to add the ability to list equity Weekly strike price interval of \$2.50 or greater where the strike price is above \$150. The Exchange believes the proposed expansion will benefit the marketplace given the increased market demand for this Program.

The Weeklys Program for equity options is codified in Exchange Rule 5.5(d).⁴ This rule currently states that after an equity option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire at the close of business on each of the next five Fridays

³ Short Term Option Series ("Weeklys") are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire at the close of business on Fridays. The Exchange may list Weeklys for the next five Fridays that are business days (and are not Fridays in which monthly options series or Quarterly Options Series expire). The specifics of the Program are discussed in more detail below.

⁴ With the proposal, the Exchange is only proposing to amend the Weeklys Program for equity options. The amount of classes that may participate in the Program, however, is aggregated between equity options and index options and is not apportioned between equity and index options. Thus, as discussed more below, the Exchange is proposing to make a conforming change to the class limitation located in the Exchange's index Weeklys Program rules (Exchange Rule 24.9(a)(2)(A)) to align the limitation for both equity and index options.

that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire.⁵ Weekly expirations may not expire on the same day on which a monthly option series or Quarterly Option series expires.⁶ The Exchange may select up to 30 currently listed option classes to participate in the Program and the Exchange may also list Weeklys on classes selected by other exchanges under their respective Programs.⁷ The Exchange may open up to 30 series per expiration comprised of up to 20 initial series and 10 additional series for expiration.⁸ The same number of strike prices must be opened above and below the value of the underlying security at about the time that the Weeklys are initially opened for trading on the Exchange.⁹ Strike prices being must currently be within thirty percent (30%) above or below the closing price of the underlying security from the preceding day.¹⁰

The Weeklys Program currently allows that the interval between strike prices may be (i) \$0.50 or greater where the strike prices is less than \$75, and \$1 or greater where the strike price is between \$75 and \$150 for all classes that participate in the Weeklys Program.¹¹ In addition, during a market move such that no series are at least 10% above or below the current price of the underlying security and all existing series have open interest, the Exchange may also open additional series in excess of the 30 strike limitation that are between 10% and 30% of the price of the underlying security.¹² Finally, in the event that the underlying security has moved such

⁵ See Exchange Rules [sic] 5.5(d).

⁶ See Exchange Rule 5.5(d)(2).

⁷ See Exchange Rule 5.5(d)(1).

⁸ See Exchange Rules 5.5(d)(1), (3) and (4).

⁹ Id.

¹⁰ Id.

¹¹ See Exchange Rule 5.5(d)(5).

¹² See Exchange Rule 5.5(d)(4).

that there are no series that are at least 10% above or below the current prices of the underlying security, the Exchange will delist any series with no open interest so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security.¹³ The Exchange is now proposing to expand the Program as the Exchange believes an expansion will benefit the marketplace while aligning the Exchange with currently proposed expansions by another options exchange.¹⁴

First, the Exchange is proposing to increase the number of classes that participate in the Program. Currently, the Exchange may “select up to thirty currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date.”¹⁵ The Exchange is now proposing to increase this number from thirty to fifty. The Exchange believes that this expansion will be well received by market participants because the Program is currently very popular and continues to grow.¹⁶ In particular, the Exchange understands that there are several classes for which there is demand that they be added to the Program.

The Exchange is proposing to set forth this change in Rules 5.5(d)(1) and 24.9(a)(2)(A)(i). CBOE’s rules governing the Program are written so that the number of classes that may participate are not apportioned between equity and index classes. In other words, the class limitation is aggregated between equity and index options. While the Exchange is not proposing to substantively amend the rule for the index options Weeklys Program, the Exchange

¹³ See Exchange Rule 5.5(d)(6).

¹⁴ The NASDAQ OMX PHLX LLC (“Phlx”) has recently submitted a proposed rule change to expand its Weeklys Program. See Securities and Exchange Act Release No. 71004 (December 6, 2013 (order approving SR-Phlx-2013-101) (“Phlx Filing”).

¹⁵ See Exchange Rules 5.5(d)(1). See also note 4 supra.

¹⁶ The Exchange expressed support of the increase in the class number participating in the Weeklys Program in a comment letter to the Phlx Filing. See Letter dated November 12, 2013 from Megan R. Malone, Chicago Board Options Exchange, Incorporated.

is proposing to reflect the increase to the total number of classes that may participate in the Program by amending Rule 24.9(a)(2)(A)(i). The Exchange believes that this conforming change to the index options Weeklys Program is appropriate for consistency and is needed in order to eliminate any ambiguity that would result if this change were not made.

Second, the Exchange is proposing to indicate the criteria the Exchange must follow when opening initial and additional series under the Weeklys Program. More specifically, the Exchange is proposing to add language to Rules 5.5(d)(3) and 5.5(d)(4) for equity options to state that series listed (both initial and additional) shall be reasonably close to the price of the underlying equity security (which underlying security price shall be determined in accordance with subparagraph (a)(i) of Rule 5.5A) and within the following parameters: (i) if the price of the underlying security is less than or equal to \$20, strike prices shall be not more than one hundred percent (100%) above or below the price of the underlying security; and (ii) if the price of the underlying security is greater than \$20, strike prices shall be not more than fifty percent (50%) above or below the price of the underlying security. The Exchange is also proposing to add language stating that the Exchange may open additional strike prices of Short Term Option Series that are more than 50% above or below the current value of the underlying security (if the price is greater than \$20); provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision.¹⁷

¹⁷ Rule 5.5A(b)(i) currently states that if the price of the underlying security is greater than \$20, the Exchange shall not list new option series with an exercise price more than 50% above or below the price of the underlying security. Immediately before this language, the Exchange proposes to also add a carve-out that states “Except as provided in Rule 5.5(d)(4) . . .”

This proposal is in line with process for adding new series of options found in subsection 3(g)(i) of the Options Listing Procedures Plan (“OLPP”).¹⁸ The Exchange believes that is [sic] this proposal is a reasonable enhancement to the Weeklys Program and will also align the Exchange with other exchanges participating in the Weeklys Program.¹⁹ The proposed added language to Rule 5.5(d)(4) with conform the criteria for additional series added to the proposed criteria for initial series additions.

Next, the Exchange is proposing to permit the Exchange to list strike price intervals at \$2.50 or more for classes in the Weeklys Program where the strike price is above \$150. This proposed change complements the current Weeklys strike price interval setting regime, which provides for \$0.50 or greater strike prices where the strike price is less than \$75 and \$1.00 or greater strike prices where the strike prices is between \$75 and \$150 for all classes that participate in the Weeklys Program.²⁰ The proposed change would align the Exchange with another options exchange participating in the Weeklys Program²¹ while permitting the listing of an additional strike interval for higher priced underlying securities that complements the current intervals.

Finally, the Exchange is proposing to delete language in its Delisting provisions of the Weeklys Program. More specifically, the Exchange is proposing to delete the current provision that states that the Exchange will delist any series with no open interest in both the call and put series as to ‘list series that are at least 10% but not more than 30 above or below the current

¹⁸ Rule 5.5A codifies select provisions of the OLPP.

¹⁹ See note 14 supra.

²⁰ Strike price intervals may also be \$0.50 for classes that trade in \$1.00 increments in Related non-Short Term Options that participate in the Weeklys Program. See Exchange Rule 5.5(d)(5).

²¹ See note 14 supra.

value of the underlying index.” The Exchange believes this proposed change will conform the delisting provision for the Weeklys Program with the other proposed amendments and align the Exchange with another options exchange participating in the Program.²²

The Exchange believes this proposed expansion will meet the current unmet market demand in the Weeklys Program which has proven to be a popular program. In addition, the proposed changes will make the Weeklys Program more effective, harmonize the provisions with the OLPP, and create more clarity in the Exchange’s rules. Finally, the Exchange believes other options exchanges will adopt similar provisions as all options exchanges currently have similar rules. This expansion across all options exchanges will continue to promote competition amongst the exchanges.

The Exchange notes that the Weeklys Program has been very well-received by market participants, in particular by retail investors. The Exchange believes that the current proposed revision to the Weeklys Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes and series.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.²³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

²² See note 14 *supra*.

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Weeklys Program has been well-received by market participants and has seen increasing trading volume. The Exchange believes that the current proposed revisions to the Weeklys Program will permit the Exchange to meet customer demand for enhanced Weeklys Program use and efficiency, harmonization of the OLPP and Weeklys rules, and a reasonable expansion of strike price intervals in the Program to the benefit of investors, market participants, and the market in general.

With regard to the impact of this proposal on system capacity, the Exchange has [sic] represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the Weeklys Program. The Exchange believes that its Trading Permit Holders will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation to liquidity.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

²⁵

Id.

Instead, CBOE believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

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 proposed rule change. The Exchange does note that the original Phlx proposal received one comment from the Exchange in support of the expansion of the Weeklys Program to 50 options classes.²⁶ The Phlx proposal did not receive any other comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁷ and Rule 19b-4(f)(6) thereunder.²⁸

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of

²⁶ See note 16 supra.

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

this requirement will promote fair competition among exchanges by allowing the Exchange to offer a more efficient Weeklys Program that is harmonized internally and externally with the OLPP, and to meet customer demand for a greater number of Weeklys classes and strike price intervals, in the same manner as other exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues, and waiver will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.²⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-2013-121 on the subject line.

²⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Number SR-CBOE-2013-121. 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 website (<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 website 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 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-2013-121 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.³⁰

Kevin M. O'Neill
Deputy Secretary

³⁰ 17 CFR 200.30-3(a)(12).