

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54133; File No. SR-CBOE-2006-49)

July 12, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto to Modify Its Short Term Option Series Pilot Program to Permit the Listing of up to Seven Series per Class

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 June 27, 2006, 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 prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on July 11, 2006.³ 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

The Exchange proposes to modify its Short Term Option Series pilot program (“Pilot Program”) to change the number of series that may be listed for a class selected to participate in the Pilot Program from five to seven. The text of the proposed rule change, as amended, is set forth below. Proposed new language is underlined; deletions are in [brackets].

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, a partial amendment, the Exchange corrected a typographical error in the proposed rule text.

Rule 5.5. Option Contracts Open for Trading

(a) – (c) No change.

(d) Short Term Option Series Pilot Program. After an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Friday that is a business day (“Short Term Option Opening Date”) series of options on that class that expire on the next Friday that is a business day (“Short Term Option Expiration Date”). If the Exchange is not open for business on a Friday, the Short Term Option Opening Date will be the first business day immediately prior to that Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

Regarding Short Term Option Series, [no new Short Term Option Series may be added after the open of business on the Short Term Option Opening Date and] no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. The Exchange may continue to list Short Term Option Series until the Short Term Option Series Pilot Program expires on July 12, 2007.

. . . Interpretations and Policies

.01 – .02 No change.

.03 Except for Short Term Option Series, the Exchange usually will open four expiration months for each class of options open for trading on the Exchange: the first two being the two nearest months, regardless of the quarterly cycle on which that class trades; the third and fourth being the next the two months of the quarterly cycle previously designated by the Exchange for that specific class. (For example, if the Exchange listed, in late April, a new stock option on a January-April-July-October quarterly cycle, the Exchange would list the two nearest term

months (May and June) and the next two expiration months of the cycle (July and October).) When the May series expires, the Exchange would add January series. When the June series expires, the Exchange would add August series as the next nearest month, and would not add April).

Regarding Short Term Option Series, the Exchange may select up to five currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the five-option class restriction, the Exchange also may list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar Pilot Program under their respective rules. For each option class eligible for participation in the Short Term Option Series Pilot Program, the Exchange may open up to [five] seven Short Term Option Series for each expiration date in that class. The strike price of each Short Term Option Series will be fixed at a price per share, with [at least two] approximately the same number of strike prices being opened above and [two strike prices] below the value of the underlying security or calculated index value at about the time that the Short Term Option Series [is] are initially opened for trading on the Exchange (e.g., if seven series are initially opened, there will be at least three strike prices above and three strike prices below the value of the underlying security or calculated index value). If the Exchange opens less than seven Short Term Option Series for a Short Term Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened.

.04 – .09 No change.

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Rule 24.9 Terms of Index Option Contracts

(a) General.

(1) No Change.

(2) Expiration Months. Index option contracts may expire at three-month intervals or in consecutive months. The Exchange may list up to six expiration months at any one time, but will not list index options that expire more than twelve months out. Notwithstanding the preceding restriction, until the expiration in November 2004, the Exchange may list up to seven expiration months at any one time for the SPX, MNX and DJX index option contracts, provided one of those expiration months is November 2004.

Short Term Option Series Pilot Program. Notwithstanding the preceding restriction, after an index option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Friday that is a business day (“Short Term Option Opening Date”) series of options on that class that expire on the next Friday that is a business day (“Short Term Option Expiration Date”). If the Exchange is not open for business on a Friday, the Short Term Option Opening Date will be the first business day immediately prior to that Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

The Exchange may continue to list Short Term Option Series until the Short Term Option Series Pilot Program expires on July 12, 2007.

Regarding Short Term Option Series, the Exchange may select up to five currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the five-option class restriction, the Exchange also may list Short Term Option Series on any option classes that are selected by other securities exchanges that

employ a similar Pilot Program under their respective rules. For each index option class eligible for participation in the Short Term Option Series Pilot Program, the Exchange may open up to [five] seven Short Term Option Series on index options for each expiration date in that class. The strike price of each Short Term Option Series will be fixed at a price per share, with [at least two] approximately the same number of strike prices being opened above and [two strike prices] below the calculated value of the underlying index at about the time that the Short Term Option Series [is] are initially opened for trading on the Exchange (e.g., if seven series are initially opened, there will be at least three strike prices above and three strike prices below the value of the underlying security or calculated index value). If the Exchange has opened less than seven Short Term Option Series for a Short Term Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the current value of the underlying index moves substantially from the exercise price or prices of the series already opened. No Short Term Option Series on an index option class may expire in the same week during which any monthly option series on the same index class expire or, in the case of QIXs, in the same week during which the QIXs expire.

(3) – (5) No change.

(b) – (c) No change.

... Interpretations and Policies:

.01 – .11 No change.

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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

On July 12, 2005, the Commission approved the Pilot Program.⁴ The Pilot Program allows CBOE to list and trade Short Term Option Series, which would expire one week after the date on which a series is opened. Under the Pilot Program, CBOE can select up to five approved options classes on which Short Term Option Series could be opened.⁵ A series could be opened on any Friday that is a business day and would expire on the next Friday that is a business day.⁶

⁴ See Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR-CBOE-2004-63) (approving Short Term Option Series on a pilot basis through July 12, 2006). The Pilot Program has since been extended through July 12, 2007. See Securities Exchange Act Release No. 53984 (June 14, 2006), 71 FR 35718 (June 21, 2006) (SR-CBOE-2006-48) (notice of filing and immediate effectiveness of extension of the Pilot Program).

⁵ A Short Term Option Series could be opened in any options class that satisfied the applicable listing criteria under CBOE rules (*i.e.*, stock options, options on exchange-traded funds as defined under Interpretation and Policy .06 to CBOE Rule 5.3, or options on indexes). The Exchange can also list and trade Short Term Option Series on any options class that is selected by another exchange that employs a similar pilot program, though to date the Exchange is not aware of any other exchanges listing Short Term Option Series.

⁶ Under the Pilot Program, Short Term Option Series are settled in the same manner as the monthly expiration series in the same class. Thus, if the monthly option contract for a particular class would be A.M.-settled, as most index options are, the Short Term Option

If a Friday were not a business day, the series could be opened (or would expire) on the first business day immediately prior to that Friday.⁷

The current terms of the Pilot Program provide that the Exchange usually would open five Short Term Option Series for each expiration date in that class. In addition, the strike price of each Short Term Option Series is fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security or calculated index value at about the time that the Short Term Option Series is opened.⁸ CBOE is now proposing to modify these terms of the Pilot Program to provide that up to seven (as opposed to five) Short Term Option Series may be opened in an options class selected for the program for each expiration date. Approximately the same number of strike prices would be opened above and below the value of the underlying security or calculated index value at about the time the Short Term Option Series are initially opened for trading. For example, if seven series are initially opened, there will be at least three strike prices above and three strike prices below the value of the underlying security or calculated index value. In addition, the Exchange is proposing that, if the Exchange has opened less than seven Short Term Option Series in a particular options class

Series for that class also would be A.M.-settled; if the monthly option contract for a particular class were P.M.-settled, as most non-index options are, the Short Term Option Series for that class also would be P.M.-settled. The Exchange notes that certain monthly expiration index options – specifically, American- and European-style options on the S&P 100 Index (OEX and XEO, respectively) – are P.M.-settled. Therefore, Short Term Option Series in these series would also be P.M.-settled. Similarly, Short Term Option Series for a particular class are physically settled or cash-settled in the same manner as the monthly option contract in that class.

⁷ Additionally, CBOE will not open a Short Term Option Series in the same week that the corresponding monthly options series is expiring, because the monthly options series in its last week before expiration is functionally equivalent to the Short Term Option Series.

⁸ The interval between strike prices on a Short Term Option Series is the same as with the corresponding monthly options series.

for a given expiration date, additional series in that class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the current value of the underlying index moves substantially from the exercise price or prices of the series already opened. In any event, the total number of series for a given expiration date will not exceed seven.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁰ in particular, in that it is 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. The Exchange believes that the proposed modification to the Pilot Program would result in a continuing benefit to investors, by allowing the Exchange to maintain an orderly market and meet customer demand, and accommodate instances where the underlying security or index value may move substantially. As such, the Exchange believes the change would increase the utility of the Pilot Program, consistent with the Pilot Program's objectives..

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

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 the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(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, as amended, 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-2006-49 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2006-49. 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. Copies of such 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-2006-49 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).