

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54762; File No. SR-CBOE-2006-93)

November 16, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change Regarding Quarterly Options 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 November 8, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

CBOE proposes to amend its rules regarding the opening of Quarterly Options Series to limit the number of strike prices that the Exchange may open for Quarterly Options Series and make minor clarifications. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.com>), 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

---

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

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

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. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2006, the SEC approved CBOE's proposal to add language to CBOE Rule 24.9 that would permit the listing and trading of Quarterly Options Series based on an underlying index.<sup>3</sup> That language did not include a limit on the number of strike prices that may be opened for a Quarterly Options Series. In the instant filing, Exchange proposes to add such a limit.

The purpose of the proposed rule change is to amend CBOE Rule 24.9 ("Terms of Index Option Contracts") to (1) limit the number of strike prices that the Exchange may open for Quarterly Options Series to five strike prices above or below the value of the underlying index, (2) clarify that the Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems such action necessary to maintain an orderly market or meet customer demand, and (3) clarify that the opening of any new Quarterly Options Series will not affect the previously opened series of options of the same class.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect

---

<sup>3</sup> See Securities Exchange Act Release No. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (approving SR-CBOE-2006-65) ("Pilot Program Approval Order").

<sup>4</sup> 15 U.S.C. 78f(b).

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

the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Statement of 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.

C. Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

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.<sup>6</sup> In particular, the Commission believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the rules of the Exchange be designed 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.

Currently, under CBOE Rule 24.9, at the time the Exchange initially lists strike prices for a QOS, the Exchange may list strike prices that are within \$5 from the closing price of the underlying index on the preceding trading day. The Exchange may open for trading additional strike prices if the current market price of the underlying index moves substantially from the exercise prices of those QOS that already have been opened for trading on the Exchange. The

---

<sup>6</sup> In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

exercise price of each such additional QOS is required to be reasonably related to the current index value of the underlying index at or about the time such additional series is opened for trading on the Exchange. The CBOE rules define the term “reasonably related to the current index value of the underlying index” to mean that the exercise price is within thirty percent of the current index value.

However, despite this “reasonably related” requirement, the current language of CBOE Rule 24.9 also permits the Exchange to open for trading additional strike prices that are more than thirty percent away from the current index value, “provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers.”<sup>8</sup> Thus, as currently in effect, CBOE Rule 24.9 effectively does not limit the number of additional strike prices that may be opened for a QOS based on an underlying index.

In this filing, the Exchange proposes to eliminate the requirement that strike prices at the time of initial listing must be within \$5 from the closing price of the underlying security on the preceding trading day. Instead, the proposal would limit the Exchange to listing no more than five strike prices above and five strike prices below the value of the underlying index at about the time the QOS is opened for trading on the Exchange.

In addition, the proposal would restrict the additional strike prices that may be opened on a QOS. The proposal would permit the Exchange to open additional strike prices that are above (or below) the value of the underlying index, provided that the total number of strike prices above (or below) the value of the underlying index is no greater than five. For example, assume that when a particular QOS was initially listed, the Exchange opened the maximum number of strike prices permitted by the rule: five above and five below the value of the underlying index at

---

<sup>8</sup> CBOE Rule 24.9(a)(2).

that time. If the index value subsequently increased such that only two strike prices were above the value of the underlying index, the Exchange would be permitted to open up to three additional strike prices above the value of the index. (In this example, the Exchange would not be permitted to open any additional strike prices below the value of the underlying index because it may only add strike prices provided that the total number of open strike prices on that side of the underlying index value remains five or fewer.) The provisions of CBOE Rule 24.9 requiring that the exercise price of additional series must be “reasonably related” to the value of the underlying index, unless “demonstrated customer interest” exists for a series with an exercise price more than 30% away from the current index value, would remain in place, but would be limited by the five above/five below restriction.

Although the proposal is more permissive in the range of strike prices that may be opened at the time of initial listing, the proposal to limit additional strike prices renders CBOE Rule 24.9(a)(2) more restrictive overall in the number of strike prices that may be opened on the Exchange. Therefore, the Commission believes the proposal should not raise any capacity or regulatory concerns not already discussed in the order approving the QOS pilot program.<sup>9</sup> For these reasons, the Commission believes that the proposed rule change is consistent with the Act.

The Exchange has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of notice of the filing in the Federal Register. The Commission believes that accelerated approval is appropriate because the proposal adds a restriction on the number of strike prices that may be opened on the Exchange, thus lessening the impact of the QOS on the limited quote traffic capacity of the Exchange and the Options Price

---

<sup>9</sup> For the same reason, the Commission does not view the proposed rule change as an expansion of the pilot program, and therefore the proposal does not trigger the requirement under the terms of the Pilot Program Approval Order that the Exchange submit a pilot program report. See Pilot Program Approval Order, 71 FR at 40561.

Reporting Authority, while still permitting the Exchange to list an appropriate range of strike prices in order to respond to market conditions and customer demand. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>10</sup> to approve the proposed rule change prior to the thirtieth day after publication of the notice of filing thereof in the Federal Register.

#### 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>);
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2006-93 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-CBOE-2006-93. 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

---

<sup>10</sup> 15 USC 78s(b)(2).

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 identifying personal information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-CBOE-2006-93 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-CBOE-2006-93) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris  
Secretary

---

<sup>11</sup> Id.

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