

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60556; File No. SR-CBOE-2009-061)

August 21, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Clarify the Definition of “Narrow-Based Index”

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4² thereunder, notice is hereby given that on August 18, 2009, the Chicago Board Options Exchange, Incorporated (“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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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

CBOE proposes to amend Rule 24.1(i)(2) by clarifying the definition of "industry index" and "narrow-based-index" to include indices having component securities that are all headquartered within a single country. The text of the rule proposal is available on the Exchange’s website (<http://www.cboe.org/legal>), at the Exchange’s Office of the Secretary and at the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

This proposed rule change is based on a filing previously submitted by NASDAQ OMX PHLX, Inc ("PHLX") that was effective on filing.⁵

CBOE proposes to amend Rule 24.1(i)(2), which defines the terms "industry index" and "narrow-based index" to mean "an index designed to representative of a particular industry or a group of related industries," to also accommodate an index having component securities that are all headquartered within a single country to be listed as a narrow-based index pursuant to Exchange rules. This would enable options based on an index, including companies all headquartered within a single country, to be rightfully considered as a generic narrow-based index for purposes of listing on the Exchange and trading.

The listing and trading of index options on the Exchange is generally conditioned on the ability to meet the rule requirements for narrow-based, micro-narrow based and broad based

⁵ See Exchange Act Release No. 60150 (June 19, 2009), 74 FR 30658 (June 26, 2009) (SR-Phlx-2009-35).

indices.⁶ More particularly regarding narrow-based indices, Rule 24.2(b) states that the Exchange may trade options on an underlying index pursuant to Rule 19b-4(e) of the Act⁷ where all of the noted conditions noted are satisfied.⁸ Indeed, the Exchange has, and continues to, list and trade options on narrow-based indices based on industries or a group of related industries that are located within various countries. These options are traded pursuant to the Exchange's index option trading rules.⁹

With the Exchange's interpretation of Rule 24.1(i)(2) as discussed herein, the Exchange proposes to list and trade options, pursuant to Rule 24.2(b), on an index(es) that has component securities, which are all headquartered within a single country. The Exchange represents that, in all other material aspects, the underlying narrow-based index would be required to satisfy all other requirements for generic listing and trading pursuant to Rule 24.2(b) and options on such indices would be traded pursuant to the Exchange's trading rules.¹⁰ The proposed rule change

⁶ Broad-based (or market) and micro narrow-based indices, which are not at issue in this filing, are defined in Rule 24.1(i)(1) and 24.1(i)(3).

⁷ The International Securities Exchange and PHLX have the same ability pursuant to their own rules.

⁸ These include the index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted, and consists of ten or more component securities; each component security has a market capitalization of at least \$75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index; the market capitalization is at least \$50 million; and trading volume of each component security has been at least one million shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume has been at least 500,000 shares for each of the last six months. See Rule 24.2(b)(1) – (12) or all of the conditions [sic]

⁹ See Chapter XXIV (index options trading rules). See also Chapters I through XIX (general options trading rules).

¹⁰ See id. The trading rules include, among other things, position limits, exercise limits and terms of options contracts (Rules 24.4A, 24.5 and 24.9). See also Securities Exchange Act Release No. 4052 (July 18, 2000), 65 FR 45805 (July 25, 2000) (SR-CBOE-00-16)

simply seeks to clarify that the generic listing and trading standards would cover an index that otherwise qualifies as a "narrow-based index," with the exception that the component securities of the index are all headquartered within a single country.

The Exchange represents that its existing surveillance procedures applicable to trading in options will be adequate to properly monitor the trading in options on these narrow-based indices.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act¹¹ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ 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 by clarifying the term "narrow-based index" also accommodates an index having component securities that are all headquartered within a single country.

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

(order approving narrow-based index options position limit increase to 18,000, 24,000 and 31,500 contracts).

¹¹ 15 U.S.C. 78f(b)(1). [sic]

¹² 15 U.S.C. 78f(b).

¹³ 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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ At any time within 60 days of the filing of such 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

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

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). CBOE has satisfied the five business-day prefiling requirement.

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2009-061 on the subject line.

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-2009-061. 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 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 publicly available. All submissions should refer to File

Number SR-CBOE-2009-061 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.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).