

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60749; File No. SR-CBOE-2009-068)

September 30, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change to Amend the \$1 Strike Program to Allow Low-Strike LEAPS

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 16, 2009, the 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, II, and III 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 the \$1 Strike Program. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE and at the Commission.

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.

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

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

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

1. Purpose

The purpose of the proposed rule change is to expand the \$1 Strike Program (“Program”) in a limited fashion to allow CBOE to list new series in \$1 intervals up to \$5 in long-term option series (“LEAPS”) in up to 200 option classes on individual stocks.<sup>3</sup> Currently, under the Program, CBOE may not list LEAPS at \$1 strike price intervals for any class selected for the Program. CBOE also is restricted from listing any series that would result in strike prices being \$0.50 apart, unless the series are part of the \$.50 Strike Program.<sup>4</sup> (See CBOE Rule 5.5.01.)

CBOE believes that this proposal is appropriate and will allow investors to establish option positions that are better tailored to meet their investment objectives, vis-à-vis credit risk, using deep out-of-the-money put options. Deep out-of-the money put options are viewed as a viable, liquid alternative to OTC-traded credit default swaps (“CDS”). These options do not possess the negative characteristics associated with CDS, namely, lack of transparency, insufficient collateral requirements, and inefficient trade processing. Moreover, deep out-of-the money put options and CDS are functionally similar, as there is a high correlation between low-strike put prices and CDS spreads.<sup>5</sup>

CBOE notes that its proposal is limited in scope, as \$1 strikes in LEAPS may only be listed up to \$5 and in only up to 200 option classes. As is currently the case, CBOE would

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<sup>3</sup> Under CBOE Rule 5.8, LEAPS expire from 12-39 months from the time they are listed.

<sup>4</sup> On September 15, 2009, CBOE filed SR-CBOE-2009-069 for immediate effectiveness, which filing establishes a \$.50 Strike Program.

<sup>5</sup> More information is available on this trading strategy at CBOE’s website at <http://www.cboe.com/Institutional/DOOM.aspx>.

not list series with \$1.00 intervals within \$0.50 of an existing \$2.50 strike price in the same series. As a result, CBOE does not believe that this proposal will cause a significant increase in quote traffic.

Moreover, as the SEC is aware, CBOE has adopted various quote mitigation strategies in an effort to lessen the growth rate of quotations. When it expanded the Program several months ago, CBOE included a delisting policy that would be applicable with regard to this proposed expansion.<sup>6</sup> CBOE and the other options exchanges amended the Options Listing Procedures Plan (“OLPP”) in 2008 to impose a minimum volume threshold of 1,000 contracts national average daily volume per underlying class to qualify for an additional year of LEAP series.<sup>7</sup> Most recently, CBOE, along with the other options exchanges, amended the OLPP to adopt objective, exercise price range limitations applicable to equity option classes, options on ETFs and options on trust issued receipts.<sup>8</sup> CBOE believes that these price range limitations will have a meaningful quote mitigation impact. CBOE also notes that it recently delisted 216 option classes as part of its mandatory class delisting policy.<sup>9</sup>

The margin requirements set forth in Chapter XII of the Exchange’s rules and the position and exercise requirements set forth in Rule 4.11 and Rule 4.12 will continue to apply

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<sup>6</sup> The delisting policy includes a provision that states CBOE may grant member requests to add strikes and/or maintain strikes in series of options classes traded pursuant to the Program that are eligible for delisting.

<sup>7</sup> See SEC Release No. 34-58630 (September 24, 2008), approving Amendment No. 2 to the OLPP.

<sup>8</sup> See SEC Release No. 34-60531 (August 19, 2009), approving Amendment No. 3 to the OLPP. CBOE’s proposal to list \$1 strikes in LEAPs to \$5 would not be subject to the exercise price range limitations contained in new paragraph (3)(g)(ii) of the OLPP.

<sup>9</sup> See CBOE Information Circular IC09-172.

to these new series, and no changes are being proposed to those requirements by this rule change.

With regard to the impact on system capacity, CBOE has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of series as proposed by this filing.

## 2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (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>10</sup> Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Exchange believes that the listing of the \$1 strike price in LEAPS series will benefit investors by giving them more flexibility to closely tailor their investment decisions.

### 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.

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<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 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

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 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 No. SR-CBOE-2009-068 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 No. SR-CBOE-2009-068. 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 changes 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 No. SR-CBOE-2009-068 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>12</sup>

Florence E. Harmon  
Deputy Secretary

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