

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62880; File No. SR-CBOE-2010-080)

September 9, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to Trade Options on Leveraged Exchange-Traded Notes and to Broaden the Definition of "Futures-Linked Securities"

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 August 31, 2010, 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. On September 9, 2010, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

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

CBOE proposes to amend Interpretation and Policy .13 to Rule 5.3 to: (a) permit trading options on leveraged (multiple or inverse) exchange-traded notes, and (b) broaden the definition of "Futures-Linked Securities." 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.

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

Amendment 1 replaces the original filing in its entirety. The purpose of Amendment 1 is to make technical corrections to rule references in Item 1 and Item 3. No changes to the proposed rule text that was submitted in the original filing are being proposed by this Amendment 1.

The Exchange proposes to amend Interpretation and Policy .13 to Rule 5.3 to: (a) permit trading options on leveraged (multiple or inverse) exchange-traded notes ("ETNs"), and (b) broaden the definition of "Futures-Linked Securities." ETNs are also known as "Index-Linked Securities," which are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or market indexes of the foregoing. Index- Linked Securities are the non-convertible debt of an issuer that have a term of at least one (1) year but not greater than thirty (30) years. Despite the fact that Index-Linked Securities are linked to an underlying index, each trade as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options apply to Index-Linked Securities.

Leveraged ETN Options.

The Exchange proposes to amend Rule 5.3.13 to permit the listing of options on leveraged (multiple or inverse) ETNs. Multiple leveraged ETNs seek to provide investment results that correspond to a specified multiple of the percentage performance on a given day of a particular Reference Asset. Inverse leveraged ETNs seek to provide investment results that correspond to the inverse (opposite) of the percentage performance on a given day of a particular Reference Asset by a specified multiple. Multiple leveraged ETNs and inverse leveraged ETNs differ from traditional ETNs in that they do not merely correspond to the performance of a given Reference Asset, but rather attempt to match a multiple or inverse of a Reference Asset's performance.

The Barclays Long B Leveraged S&P 500 TR ETN ("BXUB"), the Barclays Long C Leveraged S&P 500 TR ETN ("BXUC") and the UBS AG 2x Monthly Leveraged Long Exchange Traded Access Securities ("E-TRACS") linked to the Alerian MLP Infrastructure Index due July 9, 2040 ("MLPL") currently trade on the NYSE Arca Stock Exchange and are examples of multiple leveraged ETNs. In addition, the Barclays ETN + Inverse S&P 500 VIX Short-Term Futures ETN ("XXV") currently trades on the NYSE Arca Stock Exchange and is an example of an inverse leveraged ETN. The NYSE Arca Stock Exchange also lists several other inverse leveraged ETNs for trading.³

³ These ETNs include: the Barclays Short B Leveraged Inverse S&P 500 TR ETN ("BXDB"), the Barclays Short C Leveraged Inverse S&P 500 TR ETN ("BXDC") and the Barclays Short D Leveraged Inverse S&P 500 TR ETN ("BXDD").

Currently, Interpretation and Policy .13 to Rule 5.3 provides that securities deemed appropriate for options trading shall include shares or other securities ("Equity Index-Linked Securities," "Commodity-Linked Securities," "Currency-Linked Securities," "Fixed Income Index-Linked Securities," "Futures-Linked Securities," and "Multifactor Index-Linked Securities," collectively known as "Index-Linked Securities") that are principally traded on a national securities exchange and an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934), and represent ownership of a security that provides for the payment at maturity, as described below:

- Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities ("Equity Reference Asset");
- Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more physical commodities or commodity futures, options on commodities, or other commodity derivatives or Commodity-Based Trust Shares or a basket or index of any of the foregoing ("Commodity Reference Asset");
- Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more currencies, or options on currencies or currency futures or other currency derivatives or Currency Trust Shares (as defined in Interpretation and Policy .06 to this Rule 5.3), or a basket or index of any of the foregoing ("Currency Reference Asset");
- Fixed Income Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury

securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing ("Fixed Income Reference Asset");

- Futures-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; or (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b); or (c) CBOE Volatility Index (VIX) futures ("Futures Reference Asset"); and
- Multifactor Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of any combination of two or more Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, or Futures Reference Assets ("Multifactor Reference Asset").

For purposes of Interpretation and Policy .13 to this Rule 5.3, Equity Reference Assets, Commodity Reference Asset, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets together with Multifactor Reference Assets, collectively are referred to as "Reference Assets."

In addition, Index-Linked Securities must meet the criteria and guidelines for underlying Securities set forth in Interpretation and Policy .01 to this Rule 5.3.; or the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset. In addition, the issuing company is obligated to issue or repurchase the securities in aggregation units for cash, or cash

equivalents, satisfactory to the issuer of Index-Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

The Exchange proposes to amend Interpretation and Policy .13 to Rule 5.3 to expand the type of Index-Linked Securities that may underlie options to include leveraged (multiple or inverse) ETNs. To affect this change, the Exchange proposes to amend Rule 5.3.13 by adding the phrase, "or the leveraged (multiple or inverse) performance" to each of the subparagraphs ((A) through (F)) in that section which set forth the different eligible Reference Assets.

The Exchange's current continuing listing standards for ETN options will continue to apply. Specifically, under Interpretation and Policy .16 to Rule 5.4, ETN options shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series or option contracts of the class covering such Securities whenever the underlying Securities are delisted and trading in the Securities is suspended on a national securities exchange, or the Securities are no longer an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934). In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Index-Linked Securities in any of the following circumstances: (1) the underlying Index-Linked Security fails to comply with the terms of Interpretation and Policy .13 to Rule 5.3; (2) in accordance with the terms of Interpretation and Policy .01 to Rule 5.4, in the case of options covering Index-Linked Securities when such options were approved pursuant to Interpretation and Policy .13 to Rule 5.3, except that, in the case of options covering Index-Linked Securities approved pursuant to Interpretation and Policy .13(3)(B) to Rule 5.3 that are redeemable at the option of the holder at least on a weekly basis, then option contracts of the class covering such Securities may only continue to be open for trading as long as the Securities

are listed on a national securities exchange and are "NMS" stock as defined in Rule 600 of Regulation NMS; (3) in the case of any Index-Linked Security trading pursuant to Interpretation and Policy .13 to Rule 5.3, the value of the Reference Asset is no longer calculated; or (4) such other event shall occur or condition exist that in the opinion of the Exchange make further dealing in such options on the Exchange inadvisable. Expanding the eligible types of ETNs for options trading under Interpretation and Policy .13 to Rule 5.3 will not have any effect on the rules pertaining to position and exercise limits⁴ or margin.⁵

This proposal is necessary to enable the Exchange to list and trade options on shares of the BXUB, BXUC, XXV, BXDB, BXDC, BXDD and the MLPL. The Exchange believes the ability to trade options on leveraged (multiple or inverse) ETNs will provide investors with greater risk management tools. The proposed amendment to the Exchange's listing criteria for options on ETNs is necessary to ensure that the Exchange will be able to list options on the above listed leveraged (multiple and inverse) ETNs as well as other leveraged (multiple and inverse) ETNs that may be introduced in the future.

The Exchange represents that its existing surveillance procedures applicable to trading in options are adequate to properly monitor the trading in leveraged (multiple and inverse) ETN options.

It is expected that The Options Clearing Corporation will seek to revise the Options Disclosure Document ("ODD") to accommodate the listing and trading of leveraged (multiple and inverse) ETN options.

⁴ See Rules 4.11, Position Limits, and 4.12, Exercise Limits.

⁵ See Rule 12.3, Margin Requirements.

Broaden the Definition of "Futures-Linked Securities"

The second change being proposed by this filing is to amend the definition of "Future [sic] -Linked Securities" set forth in Rule 5.3.13(1)(E). Currently, the definition of "Futures-Linked Securities" is limited to securities that provide for the payment at maturity of a cash amount based on the performance of an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; or (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b); or (c) CBOE Volatility Index (VIX) futures.

Rule 5.3 sets forth generic listing criteria for securities that may serve as underlyings for listed options trading. The Exchange believes that the current definition of "Futures-Linked Securities" is unnecessarily restrictive and requires the Exchange to submit a filing to amend the definition each time a new ETN is issued that tracks the performance of an index of futures/options on futures that is not enumerated in the existing rule. To address this issue, the Exchange is proposing to revise the definition of "Futures- Linked Securities" to provide that they are securities that for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of an index or indexes of futures contracts or options or derivatives on futures contracts ("Futures Reference Asset"). The Exchange notes that all ETNs eligible for options trading must [sic] principally traded on a national securities exchange and an "NMS Stock." As a result, the Exchange believes that broadening the definition of "Futures-Linked Securities" by no longer specifically listing the types of futures and options on futures contracts that may be tracked by an ETN is appropriate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)⁶ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of 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 rules applicable to trading pursuant to generic listing and trading criteria serve to foster investor protection.

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.

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 proposal.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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 or disapprove 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. Please include File Number SR-CBOE-2010-080 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-2010-080. 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-2010-080 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.⁸

Elizabeth M. Murphy
Secretary

⁸ 17 CFR 200.30-3(a)(12).