

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76068; File No. SR-CBOE-2015-077)

October 2, 2015

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Margin Requirements

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 September 22, 2015, 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 its rules related to margin requirements. The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

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Chicago Board Options Exchange, Incorporated
Rules

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Rule 12.3. Margin Requirements

(a) – (b) No change.

(c) Customer Margin Account—Exception. The foregoing requirements are subject to the following exceptions. Nothing in this paragraph (c) shall prevent a broker-dealer from requiring margin from any account in excess of the amounts specified in these provisions.

(1) – (4) No change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(5) Initial and Maintenance Margin Requirements on Short Options, Stock Index Warrants, Currency Index Warrants and Currency Warrants.

(A) – (B) No change.

(C) Related Securities Positions—Listed or OTC Options. Unless otherwise specified, margin must be deposited and maintained in the following amounts for each of the following types of positions.

(1) No change.

(2) Covered Calls/Covered Puts.

(a) No margin [need be]is required [in respect of]for a[n] call (put) option contract[, stock index warrant, currency index warrant] or [currency]warrant carried in a short position [which is covered by] where there is carried in the same account a long (short) position in equivalent units of the underlying security[in the case of a call, or a short position in equivalent units of the underlying security in the case of a put, provided, however, in computing margin on such position in the underlying security, the current market value to be used shall not be greater than the exercise price in the case of a call. In the case of a put, in computing margin on the underlying position, margin shall be the amount required by subparagraph (b)(2) of this Rule, plus the amount, if any, by which the exercise price of the put exceeds the current market value of the underlying].

(b) No margin is required for[In respect of an] a call (put) index option contract or warrant [on a market index]carried in a short position[,] where there is carried in the same account a long (short) position in an (i) underlying stock basket, (ii) index mutual fund, (iii) IPR (as defined in Rule 1.1, Interpretation and Policy .02), or (iv) IPS (as defined in Rule 1.1, Interpretation and Policy .03), that is based on the same index underlying the index option or warrant and having a market value at least equal to the aggregate current index value [subject to the same requirements for computing margin, may serve as cover].

[No margin is required in respect of a call option contract on a Standard and Poor's 500 (S&P 500) market index carried in a short position where there is carried for the same account a long position in the underlying open-end index mutual fund (which shall be specifically designated by the Exchange) having an aggregate market value at least equal to the underlying value of the S&P 500 contracts to be covered.]

(c) In order for the exceptions in subparagraphs (a) and (b) above to apply, in computing margin on positions in the underlying security, underlying stock basket, index mutual fund, IPR or IPS, as applicable, (i) in the case of a call, the current market value to be used shall not be greater than the exercise price, and (ii) in the case of a put, margin shall be the amount required by subparagraph (b)(2) of this Rule, plus the amount, if any, by which the exercise price exceeds the current market value.

(3) – (4) No change.

(d) – (n) No change.

. . . Interpretations and Policies:

.01 – .19 No change.

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The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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 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

Rule 12.3 sets forth margin requirements, and certain exceptions to those requirements, applicable to security positions of Trading Permit Holders’ customers. Rule 12.3(c)(5)(C)(2) currently requires no margin for covered calls and puts. Specifically, that rule provides the following:

- No margin need be required in respect of an option contract, stock index warrant, currency index warrant or currency warrant carried in a short position which is covered by a long position in equivalent units of the underlying security in the case of a call

(covered call), or a short position in equivalent units of the underlying security in the case of a put (covered put).³

- An underlying stock basket⁴ may serve as cover for an option contract or warrant on a market index carried short (subject to the same requirements for computing margin).
- No margin is required in respect of a call option on a Standard and Poor's 500 (S&P 500) market index carried in a short position where there is carried for the same account a long position in an underlying open-end index mutual fund (which will be specifically designated by the Exchange) having an aggregate market value at least equal to the underlying value of the S&P 500 contracts to be covered.

First, the proposed rule change makes some nonsubstantive changes to Rule 12.3(c)(5)(C)(2). The proposed rule change letters the provisions listed in the first two bulleted paragraphs above to become subparagraphs (2)(a) and (b) and moves part of the provision in the first bulleted paragraph to proposed subparagraph (2)(c) (as discussed below, the proposed rule change deletes the third bulleted paragraph above). Additionally, the proposed rule change revises the language to be consistent throughout these provisions, including clarifying that the underlying security or one of the other permissible offsets must be carried in the same account as

³ In computing margin on such a position in the underlying security, (a) in the case of a call, the current market value to be used shall not be greater than the exercise price and (b) in the case of a put, margin will be the amount required by Rule 12.3(b)(2), plus the amount, if any, by which the exercise price of the put exceeds the current market value of the underlying.

⁴ An "underlying stock basket" means a group of securities that includes each of the component securities of the applicable index and which meets the following conditions: (a) the quantity of each stock in the basket is proportional to its representation in the index, (b) the total market value of the basket is equal to the underlying index value of the index options or warrants to be covered, (c) the securities in the basket cannot be used to cover more than the number of index options or warrants represented by that value and (d) the securities in the basket shall be unavailable to support any other option or warrant transaction in the account. See Rule 12.3(a)(7).

the option position. The proposed rule change also makes the language more plain English, eliminates repetitive language, and inserts a missing space in proposed subparagraph (b).

Second, the proposed rule change adds circumstances in which covered calls and puts require no margin. The proposed rule change applies the provision in proposed subparagraph (b) to index mutual funds, index portfolio receipts (“IPRs”),⁵ and index portfolio shares (“IPSs”),⁶ in addition to underlying stock baskets, based on the same index underlying the index option and having a market value at least equal to the aggregate current index value.⁷ IPRs and IPSs are commonly referred to as exchange-traded funds (“ETFs”). The proposed rule change also deletes the provision that provides no margin is required in respect of options on a Standard and

⁵ The term “index portfolio receipts” or “IPRs” means securities that (a) represent an interest in a unit investment trust (“UIT”) which holds the securities that comprise an index on which a series of IPRs is based; (b) are issued by the UIT in a specified aggregate minimum number in return for a “Portfolio Deposit” consisting of specified numbers of shares of stock plus a cash amount; (c) when aggregated in the same specified minimum number, may be redeemed from the UIT which will pay to the redeeming holder the stock and cash then comprising the Portfolio Deposit; and (d) pay holders a periodic cash payment corresponding to the regular cash dividends or distributions declared and paid with respect to the component securities of the stock index on which the IPRs are based, less certain expenses and other charges as set forth in the UIT prospectus. IPRs are “UIT interests” within the meaning of the CBOE Rules. See CBOE Rule 1.1, Interpretation and Policy .02.

⁶ The term “index portfolio shares” or “IPSs” means securities that (a) are issued by an open-end management investment company based on a portfolio of stocks or fixed income securities designed to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index or fixed income securities index; (b) are issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified number of shares of stock and/or a cash amount, or a specified portfolio of fixed income securities and/or a cash amount, with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end management investment company which will pay to the redeeming holder stock and/or cash, or a specified portfolio of fixed income securities and/or cash with a value equal to the next determined net asset value. See CBOE Rule 1.1, Interpretation and Policy .03.

⁷ The term “aggregate current index value” means the current index value times the index multiplier. See CBOE Rule 12.3, Interpretation and Policy .07.

Poor's 500 (S&P 500) market index carried in a short position where there is carried for the same account a long position in the underlying open-end index mutual fund having an aggregate market value at least equal to the underlying value of the S&P 500 contracts to be covered.⁸ Proposed subparagraph (b) extends the same margin exception to any index option offset by a position in a mutual fund based on the same underlying index, making this current provision duplicative.

Index ETFs and mutual funds function in a similar manner to underlying stock baskets, as they are intended to replicate the performance of their underlying market indexes. The types and diversity of products available on the market that track indexes continues to increase and provide additional investment and hedging opportunities. While an ETF or mutual fund may not meet the definition of an underlying stock basket (for example, some ETFs have a sampling of the securities that comprise the underlying index), it essentially has the same purpose as an underlying stock basket for investors. It closely tracks an underlying index, and thus can function as an offsetting position to an index option overlying the same index in the same way as an underlying stock basket.⁹

The Board of Governors of the Federal Reserve System ("FRB") previously indicated that no margin would be required if an index option (on a broad-based stock index with at least a

⁸ The proposed rule change also deletes the requirement for CBOE to specifically designate funds, as it thinks this is no longer necessary due to the continued increase in availability of these types of products, as discussed below.

⁹ The Exchange notes that current federal net capital rules that apply to options define a qualified stock basket to mean a set or basket of stock positions which represents no less than 50% of the capitalization for a high-capitalization or non-high-capitalization diversified market index or no less than 95% of the capitalization of a narrow-based index. Those rules require positions in index options be grouped with related instruments within the option's class and qualified stock baskets in the same index. See 17 CFR 240.15c3-1a(b)(1)(i)(D) and (ii). Similar to a qualified stock basket, while an ETF or mutual fund may not hold every stock included in the underlying market index, its holdings are intended to track the index.

99% correlation with the S&P 500 index) is covered by an offsetting position in S&P Index Depository Receipts (SPDRS), but rather such SPDR positions would be treated as cover in accordance with Section 220.5(c)(3) of Regulation T.¹⁰ CBOE and another exchange later afforded the same margin treatment to options on the Dow Jones Industrial Average (DJIA) covered by units of the DIAMONDS Trust held in the same account.¹¹ Based on this previous guidance from the FRB and the Commission, and in conjunction with the Exchange's current rules, CBOE has applied this margin treatment to short index option positions where there are offsetting positions in an ETF that tracks the same underlying index held in the same margin account (which treatment the Exchange has announced in Regulatory Circulars).¹² The proposed rule change is consistent with these previous findings and applies this margin treatment generally to all ETFs and mutual funds that overly market indexes, in the same manner that the rules currently apply to underlying stock baskets. Given that the Exchange regularly lists new

¹⁰ See Letter dated February 1, 1993 from Michael J. Schoenfeld, FRB, to James McNeil, American Stock Exchange ("Amex"); see also Letter dated August 19, 1992 from James M. McNeil, Amex, to Sharon Lawson, Commission, and Letter dated January 14, 1993 from James M. McNeil, Amex, to Laura M. Homer, FRB. The section of Regulation T referenced in these letters currently corresponds to Section 220.4(b)(4), which provides margin requirements when stock is used as cover for short option positions.

¹¹ See Letter dated December 3, 1997 from James M. McNeil, Amex, to Scott Holz, FRB, and Letter dated January 8, 1998 from Scott Holz, FRB to James M. McNeil, Amex; see also Letter dated December 16, 1997 from Richard Lewandowski, CBOE, to Mr. Michael Walinskas, Commission. There was no objection from the FRB or the Commission to Amex's or CBOE's extension of the margin treatment previously provided to SPDRS to DIAMONDS.

¹² See Regulatory Circulars RG99-09 (permitting SPDRS and DIAMONDS to cover short positions of options on the S&P 500 ("SPX options") and on the DJIA (DJX), respectively); RG00-171 (permitting units of iShares S&P 100 Index Fund to cover short positions of options on the S&P 100 Index (OEX)); RG01-119 (permitting Nasdaq-100 Index Tracking Shares to cover short positions of options on the Nasdaq-100 Shares (QQQ), the Nasdaq 100 Index (NDX) or the Mini-Nasdaq 100 Index (MNX); RG02-110 (permitting units of the iShares S&P 500 Fund (IVV) to cover short SPX option positions); and RG07-126 (permitting units of the iShares Russell 200 Index Fund (IWM) to cover short positions of options on the Russell 2000 index (RUT)).

products, including index options, the Exchange believes it is appropriate to have a more general rule related to margin on these index option products that applies in the same manner rather than identifying this margin treatment in Regulatory Circulars.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change provides for a specific margin treatment related to covered puts and calls to apply to all index options in the same manner. The current rules, together with a no-action letter from the FRB and Regulatory Circulars, provide that no margin is required for a short position in certain specified index options if a long position in an underlying stock basket that meets a specific definition or certain specified ETFs that relate to the index are

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ Id.

also held in the same account. The proposed rule change merely expands the availability of this margin treatment to all index options to the extent covered by any ETF based on the same index underlying the index option. Similarly, current rules provide for this margin treatment to apply to SPX options if covered by an approved mutual fund, and the proposed rule change merely expands the availability of this margin treatment to any mutual fund based on the same index underlying the index option. Stock baskets, ETFs and mutual funds that track a reference index can generally provide the same economic function as a security underlying an option. Therefore, the Exchange believes it is appropriate to extend the same ability to secure short index option positions to ETFs and mutual funds that is currently available to underlying stock baskets. Allowing this singular margin treatment to securities providing a similar economic function promotes just and equitable principles of trade. The Exchange believes including this in its rules, rather than specifying single indexes covered by this rule in Regulatory Circulars, and creating this clarity and consistency in margin requirements will remove impediments to and perfect the mechanisms of a free and open market and a national market system. Additionally, proposed subparagraph (b) is substantially similar to the rules of another options exchange.¹⁶

The Exchange also believes the proposed rule change furthers the objectives of Section 6(c)(3) of the Act,¹⁷ which authorizes the Exchange to, among other things, prescribe standards of financial responsibility or operational capability and standards of training, experience and competence for its Trading Permit Holders and person associated with Trading Permit Holders, as well as Regulation T issued by the FRB. As discussed above, the proposed rule change is

¹⁶ See NYSE MKT LLC (“NYSE MKT”) Section 7, Rule 462(d)(12)(B)(ii)(C) and Interpretation and Policy .06.

¹⁷ 15 U.S.C. 78f(c)(3).

merely an extension of current margin standards and is consistent with an FRB no-action letter that permitted the applicable margin treatment for a specific index option and related ETF.

The proposed nonsubstantive, technical changes provide for more consistent and plain English language in similar rule provisions, which will ultimately benefit investors.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change applies to all Trading Permit Holders in the same manner and makes the same margin treatment available to all Trading Permit Holders. The proposed rule change is unrelated to competition and instead is intended to bring uniformity to CBOE's margin rules. It is consistent with current rules and interpretations set forth in Regulatory Circulars, as well as regulatory guidance, and is not intended to impact trading on the Exchange. As discussed above, proposed subparagraph (b) is also substantially similar to the rule of another options exchange.¹⁸

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 proposed rule change.

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 period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

¹⁸ See supra note 16.

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-2015-077 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2015-077. 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, D.C. 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-2015-077 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.¹⁹

Brent J. Fields
Secretary

¹⁹ 17 CFR 200.30-3(a)(12).