

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57261; File No. SR-CBOE-2008-05)

February 1, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto to Allow CBOE to List Up to Seven Expiration Months for Reduced-Value and Jumbo Options That Overlie Broad-Based Security Indexes for Which Full-Value Options are Used by CBOE to Calculate a Constant Three-Month Volatility Index

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 January 14, 2008, 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 substantially prepared by the Exchange. On January 31, 2008, CBOE filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice and order to solicit comments on the proposal, as amended, from interested persons and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

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

CBOE proposes to amend Rule 24.9(a)(2), Terms of Index Option Contracts, to allow the Exchange to list up to seven expiration months for reduced-value and jumbo options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index. The text of the proposed rule change is available on the Exchange’s website ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the Exchange’s Office of the Secretary and at the Commission's Public Reference Room.

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

<sup>2</sup> 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, CBOE 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 III below. CBOE 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

The Commission recently approved a rule change that allows the Exchange to list up to seven expiration months for broad-based security index options upon which the Exchange calculates a constant three-month volatility index.<sup>3</sup> This current proposal seeks to extend that provision to reduced-value and jumbo option contracts which overlie the same broad-based security index (e.g., Jumbo DJX Index Options ("DXL"), CBOE Mini-NDX Index ("MNX"), Mini-Russell 2000 Index ("RMN"), and Mini-SPX Index Options ("XSP")) as full-value option contracts.

In the prior proposal, the Exchange requested the ability to list up to seven expiration months in order to maintain four consecutive near term contract months and three quarterly cycle contract months. In order to maintain this structure, the Exchange noted that it would need to add a seventh contract month eight times a year.

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<sup>3</sup> See Securities Exchange Act Release No. 56821 (November 20, 2007), 72 FR 66210 (November 27, 2007) (SR-CBOE-2007-82) ("Seven Month Approval Order").

Since the Commission issued the Seven Month Approval Order, the Exchange has had one occasion to utilize the new provision for S&P 500 Index ("SPX") options.<sup>4</sup> Specifically after December 2007 expiration, the remaining SPX option series were: January 2008, February 2008, March 2008, June 2008, September 2008 and December 2008. In order to maintain four consecutive near term contract months, the Exchange added the April 2008 SPX option series on December 24, 2007.

In response to the addition of the seventh SPX option contract month after December 2007 expiration, the Exchange received inquiries from market participants who expressed interest about whether a seventh contract month would be added for XSP options. Under CBOE's current Rule 24.9, this is not permitted.

In order to provide consistent treatment across all like products and in response to customer demand, the Exchange is proposing to permit the addition of a seventh contract month for reduced-value and jumbo option contracts (e.g., XSP and DLX options) that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index. To effect this change, the Exchange is proposing to add the phrase "including reduced-value and jumbo option contracts" to Rule 24.9(a)(2).

In support of this proposal, the Exchange states it has always been the intention of the Exchange to list the same contract months for reduced-value options as for full-value options that overlie the same broad-based security index.<sup>5</sup> Because the Exchange currently only calculates

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<sup>4</sup> Currently, CBOE calculates only one three-month volatility index, the CBOE S&P 500 Three-Month Volatility Index ("VXV"), based on SPX options. Therefore, only SPX options are eligible for the addition of a seventh contract month in order to maintain four consecutive near term contract months and three quarterly cycle contract months.

<sup>5</sup> See e.g., Securities Exchange Act Release No. 32893 (September 14, 1993), 58 FR 49070 (September 21, 1993) ("Consistent with Exchange Rule 24.9, 'Terms of Option Contracts,' the CBOE proposes to list reduced-value SPX options expiring in the same

one three-month volatility index, the current proposal would only apply to XSP options. If in the future, however, the Exchange calculates other constant three-month volatility indexes, the current proposal would permit the listing of seven contract months for reduced-value and jumbo contract options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index.

### Capacity

CBOE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing of a seventh contract month for reduced-value and jumbo options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index.<sup>6</sup>

### 2. Statutory Basis

Because the increase in the number of expiration months is limited to options overlying broad based security indexes upon which the Exchange calculates a constant three-month volatility and because the series could be added without presenting capacity problems, the Exchange believes the rule proposal is consistent with 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>7</sup> Specifically, the Exchange believes that the proposed rule change is

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quarterly cycle as full-value SPX options and to list expirations in the current and next two succeeding calendar months.").

<sup>6</sup> Because the Exchange currently only calculates one three-month volatility index (the CBOE S&P 500 Three-Month Volatility Index ("VXV") based on SPX options) the current proposal would only apply to Mini-SPX Index ("XSP") options.

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

consistent with the Section 6(b)(5) Act<sup>8</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.

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 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. 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 Number SR-CBOE-2008-05 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2008-05. 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

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<sup>8</sup> 15 U.S.C. 78f(b)(5).

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 am and 3:00 pm. 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 Number SR-CBOE-2008-05 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that CBOE's proposal to amend Rule 24.9(a)(2), Terms of Index Option Contracts to allow the Exchange to list up to seven expiration months for reduced-value and jumbo options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>9</sup> and, in particular, the requirements of Section 6 of the Act<sup>10</sup> and the rules and regulations thereunder. The Commission believes that increasing, from six to

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<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

seven, the number of expiration months for these options (to accommodate a fourth consecutive near-term month while maintaining the listing of three months on a quarterly expiration cycle) will result in a more consistent and predictable calculation in which the option series that bracket three months to expiration will always expire one month apart, thereby promoting just and equitable principles of trade while protecting investors and the public interest.

The Commission also notes CBOE's representations that it possesses the necessary systems capacity to handle the additional traffic associated with the additional listing of a seventh contract month for reduced-value and jumbo options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index.

The Exchange has requested accelerated approval of the proposed rule change. The Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>11</sup> for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the Federal Register because accelerating approval will enable CBOE to harmonize the contract month listings between full-value SPX options and reduced-value SPX options (i.e., XSP options) by listing a seventh expiration month (May 2008) in order to maintain four consecutive near term contract months and three quarterly cycle contracts months. The Commission notes that this proposed rule change does not raise any new regulatory issues from those raised in the rule filing which allowed CBOE to list add a seventh expiration month for full-value broad-based security index options.<sup>12</sup>

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<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> See supra Note 3.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-CBOE-2008-05), as modified by Amendment No. 1, be, and it hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).