SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52892; File No. SR–CBOE–2005–39]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change To Amend Its $2.50 Strike Price Interval Program

December 5, 2005.

I. Introduction

On May 13, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 5.5, Interpretation and Policy .05, to allow the listing of options with $2.50 strike price intervals for strike prices between $50 and $75. The Commission published the proposed rule change for comment in the **Federal Register** on November 3, 2005.[3] The Commission received two comments each from two different commenters on the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposal

The $2.50 Strike Price Interval Program (''Program'') was initially adopted in 1995 as a joint pilot program of the options exchanges, which permits them to list options with $2.50 strike price intervals up to $50 on a total of up to 100 option classes.[5] The Program was later expanded and permanently approved in 1998 to allow the options exchanges collectively to select up to 200 classes on which to list options with $2.50 strike price intervals.[6] Of these 200 option classes eligible for the Program, 60 classes were allocated to CBOE pursuant to a formula approved by the Commission as part of the permanent approval of the Program. Each options exchange, in addition, is permitted to list options with $2.50 strike price intervals on any option class that another exchange selects as part of its Program. Under the Program currently, an option with a $2.50 strike price interval may be listed only if the strike price is between $25 and $50.[7]

The Exchange proposes to amend CBOE Rule 5.5, Interpretation and Policy .05, to allow the listing of options with $2.50 strike price intervals for options with strike prices between $50 and $75. However, the $2.50 strike price intervals between $50 and $75 must be no more than $10 from the closing price of the underlying stock in its primary market on the preceding day. For example, and as expressly described in the proposed change to CBOE Rule 5.5, if an option class has been selected as part of the Program, and the underlying stock closes at $48.50 in its primary market, CBOE could list options with strike prices of $52.50 and $57.50 on the next business day. If the underlying stock closes at $54, CBOE could list options with strike prices of $52.50, $57.50, and $62.50 on the next business day. The proposed rule change does not increase the total number of option classes that CBOE may select for the Program.

In addition, the Exchange has proposed other technical changes to CBOE Rule 5.5, Interpretation and Policy .05, including expressly noting in the rule text that: (1) The total number of option classes, *i.e.*, 60, that CBOE has been allocated of the 200 classes that are eligible for the Program; and (2) an option class shall remain in the Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed 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.[9] The Commission believes that this proposal is a reasonable means of providing investors with greater flexibility to establish equity options positions that can be better tailored to meet their investment objectives. The Commission notes that both commenters supported the proposal.

The Commission has previously noted a concern with the pressures on system capacity caused by the proliferation of illiquid options series. However, this proposal should not exacerbate the problem of increased quote traffic. As a result of this proposal, CBOE will be permitted to list options with $2.50 strike price intervals with strike prices between $50 and $75, but the total number of classes that CBOE is authorized to list pursuant to its $2.50 Strike Price Interval Program remains unchanged.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CBOE–2005–39) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–7191 Filed 12–9–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 52689 (October 27, 2005), 70 FR 66871.

[4] *See* e-mail from Marc Brown, Managing Partner, Equitec/Brown, to Cyndi Rodriguez, Special Counsel, Commission, dated September 2, 2005; e-mail from Marc Brown, Managing Partner, Equitec/Brown, to the Commission, dated November 16, 2005; e-mail from Peter Bottini, Executive Vice President, optionsXpress, Inc., to Cyndi Rodriguez, Special Counsel, Commission, dated September 7, 2005; letter from Peter Bottini, Executive Vice President, optionsXpress, Inc., to Jonathan G. Katz, Secretary, Commission, dated November 22, 2005.

[5] *See* Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995)(approving File Nos. SR–Phlx–95–08, SR–Amex–95–12, SR–OPPSE–95–07, SR–CBOE–95–19, and SR–NYSE–95–12).

[6] *See* Securities Exchange Act Release No. 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998)(approving File Nos. SR–Amex–98–21, SR–CBOE–98–29, SR–PCX–98–31, and SR–Phlx–98–26).

[7] *See, e.g.,* CBOE Rule 5.5, Interpretation and Policy .05.

[8] In approving this rule proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52888; File No. SR–CBOE–2005–83]

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

December 5, 2005.

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 October 11, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.