

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58659; File No. SR-CBOE-2008-96)

September 26, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposal to Permit \$1 Strikes for MNX Options

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 September 16, 2008, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“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 hereby proposes to amend certain of its rules to allow the Exchange to list options on the Mini-Nasdaq-100 Index (“MNX”), which is based on 1/10<sup>th</sup> the value of the Nasdaq-100 Index, at \$1 strike price intervals. 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.

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 those statements may be examined at the places specified

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

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

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

The purpose of the proposed rule change is to amend Rule 24.9, Terms of Index Option Contracts, by adding a new interpretation that would allow the Exchange to list options on the Mini-Nasdaq-100 Index ("MNX" or "Mini-NDX"), which is based on 1/10<sup>th</sup> the value of the Nasdaq-100 Index, at \$1 or greater strike price intervals.<sup>3</sup>

Specifically, the Exchange proposes that the minimum strike price interval Mini-NDX options will be 0.01 point (\$1.00). The Exchange believes that \$1 strike price intervals in Mini-NDX option series will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives. This is consistent with existing Exchange rules and practices that allow the Exchange to list series at \$1 or greater strike price intervals in similar options products. For example, Rule 24.9.01(b) allows the Exchange to list series on options based on one-one hundredth (1/100<sup>th</sup>) of the value of the Dow Jones Industrial Average Index at no less than \$0.50 intervals.<sup>4</sup> Similarly, Rule 24.9.01(f) allows the Exchange to list strike price intervals at no less than \$1 for options on the CBOE S&P 500 BuyWrite Index (1/10<sup>th</sup> value).<sup>5</sup> In addition, Rule 24.9.11 allows the Exchange to list strike price intervals at no less than \$1 for the reduced-value version of the Standard & Poor's S&P

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<sup>3</sup> Currently, under Interpretation and Policy .01(a)(xxv) to Rule 24.9, the Exchange has authority to list Mini-NDX options at \$2.50 strike price intervals.

<sup>4</sup> See Securities Exchange Act Release No. 34-39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (SR-CBOE-1997-26).

<sup>5</sup> See Securities Exchange Act Release No. 34-58207 (July 29, 2008), 73 FR 43963 (July 22, 2008) (SR-CBOE-2008-26).

500 Stock Index option ("Mini-SPX option"), which is based on 1/10<sup>th</sup> the value of the S&P 500 Index.<sup>6</sup>

For initial series, the Exchange would list at least two strike prices above and two strike prices below the current value of the MNX at or about the time a series is opened for trading on the Exchange. As part of this initial listing, the Exchange would list strike prices that are within 5 points from the closing value of the MNX on the preceding day.

As for additional series, the Exchange would be permitted to add additional series when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the underlying MNX moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing value of the MNX. The Exchange would also be permitted to open additional strike prices that are more than 30% above or below the current MNX value provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account would not be considered when determining customer interest. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each series in Mini-NDX options. In addition, the Exchange proposes that it shall not list LEAPS on Mini-NDX options at intervals less than \$5.

The Exchange is also proposing to set forth a delisting policy with respect to Mini-NDX options. Specifically, the Exchange would, on a monthly basis, review series that are outside a range of five (5) strikes above and five (5) strikes below the current value of the MNX and delist

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<sup>6</sup> See Securities Exchange Act Release Nos. 52625 (October 18, 2005), 70 FR 61479 (October 24, 2005) (SR-CBOE-2005-81) and 57049 (December 27, 2007), 73 FR 528 (January 3, 2008) (SR-CBOE-2007-125).

series with no open interest in both the put and the call series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, customer requests to add strikes and/or maintain strikes in Mini-NDX options in series eligible for delisting shall be granted.

Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Mini-NDX options.

It is expected that the proposed delisting policy for Mini-NDX options will be adopted by other options exchanges that list and trade Mini-NDX options.

The Exchange also proposes to add new Interpretation and Policy .13 to Rule 5.5, Series of Option Contracts Open for Trading, which would be an internal cross reference stating that the intervals between strike prices for Mini-NDX option series would be determined in accordance with proposed new Interpretation and Policy .01(h) to Rule 24.9.

#### 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 and trading of \$1 strikes or greater for Mini-NDX options.

## 2. Statutory Basis

The Exchange believes this 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>7</sup> Specifically, the Exchange believes that the proposed rule change is 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 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 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:

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

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

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-2008-96 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-2008-96. 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 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 a.m. and 3:00 p.m. Copies of such 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-2008-96 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon  
Acting Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).