

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59824; File No. SR-CBOE-2009-018)

April 27, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change to Permanently Establish the Short Term Option Series Pilot Program

On March 13, 2009, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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 permanently establish its Short Term Option Series pilot program (the “Weeklys Program”). The proposed rule change was published for comment in the Federal Register on March 26, 2009.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

The Commission approved the Weeklys Program on a pilot basis on July 12, 2005.⁴ The proposed rule change permanently establishes the Weeklys Program. The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59601 (March 19, 2009), 74 FR 13281.

⁴ See Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR-CBOE-2004-63) (“Weeklys Pilot Program Approval Order”). The Weeklys Program has since been extended and is currently scheduled to expire on July 12, 2009. See Securities Exchange Act Release Nos. 53984 (June 14, 2006), 71 FR 35718 (June 21, 2006) (SR-CBOE-2006-48), 56050 (July 11, 2007), 72 FR 39472 (July 18, 2007) (SR-CBOE-2007-76); and 58094 (July 3, 2008), 73 FR 40000 (July 11, 2008) (SR-CBOE-2008-70). See also Securities Exchange Act Release Nos. 54338 (August 21, 2006), 71 FR 50952 (August 28, 2006) (SR-CBOE-2006-49) (order approving an increase in the number of series that may be listed for a class selected to participate in the Weeklys Program from five to seven) and 58870 (October 28, 2008), 73 FR 65430 (November 3, 2008) (SR-CBOE-2008-110) (immediately effective rule change increasing the number of series that may be listed for a classes selected to participate in the Weeklys Program from seven series to 20 series).

proposal also consolidates the subsections of Rules 5.5 and 24.9 and make conforming, non-substantive changes to the rule text related to the Exchange's Quarterly Option Series Pilot Program.

The Weeklys Program allows CBOE to list and trade Short Term Option Series, which expire one week after the date on which a series is opened. Under the Weeklys Program, CBOE may select up to five approved option classes on which Short Term Option Series could be opened. For each class selected for the Weeklys Program, the Exchange may open up to 20 Short Term Option Series for each expiration date in that class, with approximately the same number of strike prices above and below the value of the underlying security or calculated index value at about the time that the Short Term Option Series is opened. If the Exchange opens less than 20 Short Term Option Series for a given expiration date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the current value of the underlying security or index moves substantially from the previously listed exercise prices. In any event, the total number of series for a given expiration date will not exceed 20 series.

The Exchange has selected the following four options classes to participate in the Weeklys Program: S&P 500 Index options (SPX); S&P 100 Index American-style options (OEX); Mini-S&P 500 Index options (XSP); and S&P 100 Index European-style options (XEO).

In support of its proposal seeking permanent approval of the Weeklys Program, and as required by the Weeklys Pilot Program Approval Order, the Exchange submitted to the Commission a report on the Weeklys Program (the "Report") detailing the Exchange's experience with the Weeklys Program. In addition to the Report, the

Exchange represented that it has not experienced any capacity-related problems with respect to Short Term Option Series, and also that it has the necessary system capacity to continue to support the option series listed under the Weeklys Program.

After careful review, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,⁵ and, in particular, the requirements of Section 6(b)(5) of the Act,⁶ 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.

The Commission finds that the Weeklys Program, as evidenced by the Report, has furthered the public interest by offering investors an alternative means of managing their risk exposures and carrying out their investment objectives. The Commission notes CBOE's representation that there is sufficient investor interest and demand in the Weeklys Program to warrant its permanent approval. The Commission further notes CBOE's representations that it has not experienced any capacity-related problems with respect to Short Term Option Series, and that the Exchange has the necessary system capacity to continue to support the option series listed under the Weeklys Program. Accordingly, the Commission finds that the proposed Weeklys Program strikes a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid the unnecessary proliferation of option series that could compromise systems capacity. The Commission expects CBOE to continue to

⁵ 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).

⁶ 15 U.S.C. 78f(b)(5).

monitor the trading and quotation volume associated with the Weeklys Program, and the effect the Weeklys Program has on the capacity of the Exchange's, OPRA's, and vendors' systems.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-2009-018) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).