SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58924; File No. SR-CBOE-2008-96)

November 10, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Permit $1 Strikes for MNX Options

I. Introduction

On September 16, 2008, 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] this proposed rule change. The proposed rule change was published for comment in the Federal Register on October 8, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The proposed rule change amends Rule 24.9, Terms of Index Option Contracts, by adding a new interpretation that will allow the Exchange to list options on the Mini-Nasdaq-100 Index ("MNX" or "Mini-NDX"), which is based on 1/10th the value of the Nasdaq-100 Index, at $1 or greater strike price intervals.[4] For initial series, the Exchange will be able to list at least

---

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

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 58659 (September 26, 2008), 73 FR 58998 ("Notice").

4 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. The Commission notes that the Exchange rules currently allow the Exchange to list 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 (1/100th) of the value of the Dow Jones Industrial Average Index at no less than $0.50 intervals. 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 (1/10th value). In addition, Rule 24.9.11

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 will be able to list strike prices that are within five points from the closing value of the MNX on the preceding day.

The Exchange will be permitted to list 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 also will 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 will 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. The Exchange proposes that it shall not list LEAPS on Mini-NDX options at intervals less than $5.

The Exchange also is proposing to set forth a delisting policy with respect to Mini-NDX options. The Exchange will, 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 series with no

---

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 500 Stock Index option ("Mini-SPX option"), which is based on 1/10th the value of the S&P 500 Index. See Securities Exchange Act Release Nos. 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997); 58207 (July 29, 2008), 73 FR 43963 (July 22, 2008); 52625 (October 18, 2005), 70 FR 61479 (October 24, 2005); and 57049 (December 27, 2007), 73 FR 528 (January 3, 2008).

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.

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

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.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[6] in that it is 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.

Specifically, the Commission believes that the proposal to permit listing of $1 strike prices for Mini-NDX options will provide investors with added flexibility in the trading of Mini-NDX options and further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. The Commission also believes that the proposal strikes a reasonable balance between the Exchange's desire to accommodate market participants by offering a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. The Commission notes that the existing restrictions on listing $1 strike price intervals will continue to

---

5 In approving this proposed rule change, 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).

6 15 U.S.C. 78f(b)(5).

apply, e.g., no $1 strike price may be listed (a) that is greater than $5 from MNX's closing price on the preceding day, or (b) that would result in strike prices being $0.50 apart.

In approving the proposed rule change, the Commission has relied on the Exchange's representation that it has the necessary systems capacity to support the new options series that will be listed under this proposal. The Commission expects the Exchange to continue to monitor for options with little or no open interest and trading activity and to act promptly to delist such options. In addition, the Commission expects that CBOE will continue to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR-CBOE-2008-96) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon
Acting Secretary

---

7 15 U.S.C. 78s(b)(2).

8 17 CFR 200.30-3(a)(12).