

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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-NASDAQ-2011-041 and should be submitted on or before April 27, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-34-64159; File No. SR-CBOE-2011-029]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the \$2.50 Strike Price Program

March 31, 2011.

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 March 30, 2011, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule

19b-4(f)(6) thereunder.<sup>4</sup> 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

CBOE proposes to amend Rule 5.5 to expand the Exchange's \$2.50 Strike Price Program (the "Program") to permit the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$100, provided the \$2.50 strike price intervals are no more than \$10 from the closing price of the underlying stock in the primary market. The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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 self-regulatory organization 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 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 this proposed rule change is to amend Rule 5.5 to expand the Program to permit the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$100, provided the \$2.50 strike price intervals are no more than \$10 from the closing price of the underlying stock in the primary market.

The \$2.50 Strike Price Program was initially adopted in 1995 as a joint pilot program of the options exchanges, whereby the options exchanges were permitted to list \$2.50 strike prices up to \$50 on a total of up to 100 option classes.<sup>5</sup> The Program was later permanently approved and expanded in 1998 to allow the options exchanges to

select up to 200 classes on which to list \$2.50 strike prices up to \$50.<sup>6</sup> Of these 200 option classes eligible for the Program, 60 classes have been allocated to CBOE pursuant to a formula approved by the SEC.<sup>7</sup> Each options exchange, however, is permitted to list \$2.50 strike prices on any option class that another exchange selects as part of the Program. In 2005, the Program was amended once again to allow the listing of \$2.50 strike prices between \$50 and \$75.<sup>8</sup> The Exchange now proposes to allow the listing of \$2.50 strike prices between \$50 and \$100. Below, CBOE provides two examples in support of its request to expand the strike setting parameters of the Program.

For example, consider a hypothetical stock XYZ, Inc., trading at \$81. With approximately one month remaining until expiration, and with a front month at-the-money put option (the 80 strike) trading at approximately \$1.30, the investor would be able to purchase a \$77.50 strike put at an estimated \$.60 per contract. Today, the next available strike would be the 75 strike. While the 75 strike put would certainly trade at a lesser price than the 80 strike put,<sup>9</sup> the protection offered would only take effect with a 7.40% decline in the market as opposed to a 4.30% decline in the market. The additional choice would provide the investor an additional opportunity to hedge exposure (the opportunity to hedge with a reduced outlay) and thereby minimize risk if there were a decline in the stock price of XYZ.

Another example would be if an investor desired to sell call options to hedge the exposure of an underlying stock position and enhance yield. Consider a hypothetical where XYZ was trading at \$81 and a 2-month call option with a strike price of 85 was trading at approximately \$2.35. If the investor were to sell the 85 call against an existing stock position, the investor could collect a premium equal to 2.90% of the XYZ share price, which would provide a cushion against a share price decline to \$78.65. It would also provide enhanced returns relative to holding the stock alone, provided that the price of XYZ was below \$87.35 at expiration. By providing an additional \$2.50 strike interval above \$75, the investor would have the opportunity to sell the 82.50

<sup>6</sup> See Securities Exchange Act Release No. 34-40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (SR-CBOE-98-29).

<sup>7</sup> *Id.*

<sup>8</sup> See Securities Exchange Act Release No. 34-52892 (December 5, 2005), 70 FR 73492 (December 12, 2005). (SR-CBOE-2005-39).

<sup>9</sup> The 75 strike put would trade at \$.30 in this example.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Securities Exchange Act Release No. 34-35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (SR-CBOE-95-19).

strike instead of the 85 strike. If the 85 strike call were trading at \$2.35, the 82.50 strike call would trade at approximately 3.30. By selling the 82.50 strike call at 3.30 against an existing stock position, the investor could collect a premium equal to 4.07% of the XYZ share price, which would provide a cushion against a share price decline to \$77.70. It would also provide enhanced returns relative to holding the stock alone, provided that the price of XYZ was below \$85.80 at expiration. Therefore, an additional choice of a \$2.50 strike interval could afford varying yields to the investor.

The Exchange believes that the Program has to date created additional trading opportunities for investors, thereby benefiting the marketplace. The existence of \$2.50 strike prices with strike intervals above \$75 affords investors the ability to more closely tailor investment strategies to the precise movement of the underlying security and meet their investment, trading and risk management requirements.

Finally, the Exchange represents that it and the Options Price Reporting Authority have the necessary systems capacity to support the anticipated modest increase in new options series that will result from the proposed changes to the \$2.50 Strike Program.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>10</sup> of the Act and the rules and regulations under the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange believes that the effect of the proposed expansion on the marketplace would not result in a material proliferation of quote volume or concerns with fragmentation.

Rather, the Exchange believes the \$2.50 Strike Price Program proposal would provide the investing public and other market participants increased opportunities to better manage their risk exposure. Accordingly, the Exchange believes that the proposal to expand the Program to allow the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$100 should further benefit

investors and the market by providing greater trading opportunities for those underlying stocks that have low volatility and thus trade in a narrow range.

### *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*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.<sup>14</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>15</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five-day pre-filing requirement in this case.

<sup>14</sup> See Securities Exchange Act Release No. 64157 (March 31, 2011) (SR-Phlx-2011-15) (order approving expansion of \$2.50 Strike Price Program).

<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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 Number SR-CBOE-2011-029 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-CBOE-2011-029. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-2011-029 and should be submitted on or before April 27, 2011.

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011-8123 Filed 4-5-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64158; File No. SR-NSX-2011-03]

### Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Enable the Use of a Replace Message To Modify the Display Quantity of a Reserve Order, and Certain Other Conforming Changes to Exchange Rules

March 31, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> notice is hereby given that, on March 30, 2011, National Stock Exchange, Inc. 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 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

National Stock Exchange, Inc. (“NSX” or “Exchange”) is proposing to enable a Replace Message to be used to modify the display quantity of a Reserve Order (as defined in Rule 11.11(c)(2)), and proposes certain other conforming changes to its rules.

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nsx.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### 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 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

With this rule change, the Exchange is proposing to enable the Replace Message under NSX Rule 11.11(d) to be used to modify the display quantity of a Reserve Order (as defined in Rule 11.11(c)(2)). In addition, certain conforming modifications to the text and interpretation of Rule 11.14(a)(2) are proposed.

The proposed rule change would allow the Exchange’s current “Cancel/Replace” order modifier functionality under Rule 11.11(d) to apply to the display quantity of Reserve Orders (such field being Tag 111 <sup>3</sup>). Currently, the Cancel/Replace functionality under Rule 11.11(d)(iii) allows only an adjustment to an order’s price and quantity. As applied to Reserve Orders, the Exchange’s trading system currently allows a Replace Message to be used to adjust only the reserve quantity, but not the display quantity. The proposed rule change would allow ETP Holders the ability to use the Replace Message to also adjust the display quantity of Reserve Orders (the Tag 111 field). Under the proposed rule change, the Replace Message could adjust both the display and non-display portion of a Reserve Order, including where the

aggregate size of the order remains unchanged. Accordingly, the instant rule filing proposes to add an explanatory “Interpretation and Policy” to Rule 11.11(d) to clarify that the term “quantity term” in Rule 11.11(d)(iii) shall include either, or both, the display and non-display portion of a Reserve Order, including in cases where the aggregate size of the Reserve Order is not changed. The identical use of the Replace Message to adjust the Tag 111 field is similarly offered by at least one other exchange.<sup>4</sup>

The instant rule change also proposes to modify the language of NSX Rule 11.14 (Priority of Orders) with respect to how the use of cancel/replace affects an order’s priority. The instant rule filing modifies Rule 11.14(a)(2) to provide that, where the quantity of an order has been reduced pursuant to a Replace Message, such order maintains price/time priority. This constitutes no changes to current Exchange system practice and is consistent with the trading systems of other markets.<sup>5</sup> An Interpretation and Policy is also proposed to be added to rule 11.14 to clarify how a Reserve Order’s priority is impacted by quantity adjustments (to either the display or the non-display portion) through use of a Replace Message. Specifically, Interpretation and Policy .01 provides that a Replace Message’s size decrement of a Reserve Order’s display quantity (Tag 111) will not affect the order’s priority only if total order size remains the same or decreases. Similarly, a Replace Message size decrement of a Reserve Order’s total quantity will not affect the order’s priority only if the display quantity also remains constant or decreases. Any increase in size of either the display portion or the total size of a Reserve Order will result in a new timestamp and cause that order to lose time priority.

The following chart summarizes the above-described impact on a Reserve Order’s time priority, if any, due to the use of a Replace Message to adjust the quantity.

	Display qty (Tag 111) increases	Display qty (Tag 111) decreases	Display qty (Tag 111) same
Total Order Qty Increases .....	Lose Book Priority .....	Lose Book Priority .....	Lose Book Priority.
Total Order Qty Decreases .....	Lose Book Priority .....	Maintain Book Priority .....	Maintain Book Priority.
Total Order Qty Same .....	Lose Book Priority .....	Maintain Book Priority. ....	n/a.

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Tag 111, also known as Max Floor, is a standard FIX protocol.

<sup>4</sup> See DirectEdge (EDGA and EDGX) Rule 11.5(e) and DirectEdge FIX Specifications Version 1.11

(<http://www.directedge.com/Portals/0/docs/Direct%20Edge%20Next%20Gen%20FIX%20Manual.pdf>), at section 3.6.2 (providing that the Cancel/Replace functionality may be used to modify tag 111 (the displayed quantity of a Reserve Order)). The Exchange notes that, unlike the text of the cancel/replace rules of DirectEdge, the use of

the Replace Message to adjust Tag 111 under the instant rule filing is proposed to be reflected in an Interpretation and Policy to NSX Rule 11.11(e) and not only in the Exchange’s FIX specification.

<sup>5</sup> BATS (BZX and BYX) Rule 11.12(a)(3). See also DirectEdge (EDGA and EDGX) Rule 11.8(a)(4); Arca Rule 7.36(a)(3); and CBOE Rule 52.1(e).