

necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

5. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1-2 under the Act, but for the fact that the Applicant Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1-2(a) to allow the Applicant Funds to invest in Other Investments. Applicants assert that permitting the Applicant Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition:

Applicants agree that the order granting the requested relief will be subject to the following condition:

Applicants will comply with all provisions of rule 12d1-2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,
Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58887; File No. SR-CBOE-2008-111]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Temporarily Increase the Number of Additional Quarterly Option Series in Exchange-Traded Fund Options That May Be Listed

October 30, 2008.

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

29, 2008, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 proposes to amend Rule 5.5(e), *Quarterly Option Series Pilot Program*, to temporarily increase the number of additional Quarterly Option Series ("QOS") in exchange-traded fund ("ETF") options from sixty (60) to one hundred (100) that may be added by the Exchange. The text of the proposed rule change is available on the Exchange's Web site (<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 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 temporarily increase the number of additional QOS in ETF options from sixty (60) to one hundred

(100) that may be added by the Exchange. To effect this change, the Exchange is proposing to add new subparagraph (7) to Rule 5.5(e).

Because of the current, unprecedented market conditions, the Exchange has received requests from market participants to add lower priced strikes for QOS in the Energy Select Sector SPDR ("XLE"), the DIAMONDS Trust, Series 1 ("DIA") and the Standard and Poor's Depositary Receipts/SPDRs ("SPY"). For example, for December 2008 expiration, there is demand for strikes (a) ranging from \$20 up through and including \$40 for XLE, (b) ranging from \$60 up through and including \$75 for DIA, and (c) ranging from \$74 up through and including \$85 for SPY. These strikes are much lower than those currently listed for which there is open interest.

However, under current Rule 5.5(e)(4), the Exchange cannot honor these requests because the maximum number of additional series, sixty (60), has already been listed. The Exchange is therefore seeking to temporarily increase the number of additional QOS that may be added to one hundred (100). The increase of additional series would be permitted immediately for expiration months currently listed and for expiration months added throughout the last quarter of 2008, including the new expiration month added after December 2008 expiration. The Exchange believes that this proposal is reasonable and will allow for more efficient risk management. The Exchange believes this proposal will facilitate the functioning of the Exchange's market and will not harm investors or the public interest.

The Exchange believes that user demand and the recent downward price movements in the underlying ETFs warrants a temporary increase in the number of strikes for all QOS in ETF options. Currently, the Exchange list QOS in five ETF options: (1) Nasdaq-100 Index Tracking Stock ("QQQQ"); (2) iShares Russell 2000 Index Fund ("IWM"); (3) DIA; (4) SPY; and (5) XLE. The below chart provides the historical closing prices of these ETFs over the past couple of months:

ETF	10/27/08	10/13/08	10/6/08	9/30/08	8/29/08	7/31/08
QQQQ	28.69	35.13	34.86	38.91	46.12	45.46
IWM	44.86	56.98	59.72	68.00	73.87	71.32
DIA	80.26	95.03	99.90	108.36	115.45	113.70
SPY	83.95	101.35	104.72	115.99	128.79	126.83

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

ETF	10/27/08	10/13/08	10/6/08	9/30/08	8/29/08	7/31/08
XLE	40.86	50.55	54.89	63.30	74.65	74.40

The additional series will enable the Exchange to list in-demand, lower priced strikes.

It is expected that other options exchanges that have adopted the QOS Pilot Program will submit similar proposals.

The Exchange represents that it has the necessary systems capacity to support the new options series that will result from this proposal. Further, as proposed, the Exchange notes that these series would temporarily become part of the pilot program and will be considered by the Commission when the Exchange seeks to renew or make permanent the pilot program in the future. In addition, the Exchange states that in the event that current market volatility continues, it may seek to continue (through a rule filing) the time period during which the additional series proposed by this filing may be added.

2. Statutory Basis

Because the current rule proposal is responsive to the current, unprecedented market conditions, is limited in scope as to QOS in ETF options and as to time, and because the additional new series can be added without presenting capacity problems, the Exchange believes the rule proposal is consistent with 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.⁵ Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act⁶ 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

Because the foregoing rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will enable CBOE to better meet customer demand in light of recent increased volatility in the marketplace.⁹ Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if 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. Please include File No. SR-CBOE-2008-111 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-2008-111. 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 a.m. and 3 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 No. SR-CBOE-2008-111 and should be submitted on or before November 28, 2008.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its 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 deems this requirement to be met.

⁹ 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).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58890; File No. SR-CBOE-2008-98]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Maximum Term for FLEX Options

October 30, 2008.

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 24, 2008, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 proposes to amend Rules 24A.4 and 24B.4 to increase the maximum term for Flexible Exchange Options ("FLEX Options")⁵ to fifteen years. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE 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 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 the proposed rule change is to increase the maximum term for FLEX Options. Currently, the term for a FLEX Options varies based upon the type of underlying. For example, for FLEX Equity Options, the maximum term is currently 3 years, provided a member may request a longer term to a maximum of 5 years (and upon assessment by the FLEX Official that sufficient liquidity exists, such request will be granted). For FLEX Index Options, the maximum term is currently 5 years, provided a member may request a longer term to a maximum of 10 years (and upon assessment by the FLEX Official that sufficient liquidity exists, such request will be granted).⁶ For FLEX Credit Options, the maximum term is currently 10.25 years.⁷

We are proposing to increase the maximum term for all FLEX Options to fifteen years and to eliminate the requirement that a FLEX Official make a liquidity assessment. The changes are being proposed to simplify the process and in response to numerous member requests that we expand the maximum term in order to accommodate their desire to bring trades that are otherwise conducted in the over-the-counter ("OTC") market to an exchange environment. Though we want to accommodate these requests, we are not able to do so under the existing term limitations imposed in our rules.

CBOE believes that expanding the eligible term for FLEX Options as proposed is important and necessary to the Exchange's efforts to create a product and market that provides members and investors interested in FLEX-type options with an improved

but comparable alternative to the OTC market in customized options, which can take on contract characteristics similar FLEX Options but are not subject to the same maximum term restriction. By expanding the eligible term for FLEX Options, market participants will now have greater flexibility in determining whether to execute their customized options in an exchange environment or in the OTC market. CBOE believes market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of The Options Clearing Corporation ("OCC") as issuer and guarantor of FLEX Options. Finally, the Exchange has confirmed with the OCC that OCC can configure its systems to support FLEX Options that have a maximum expiration of fifteen years.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act⁸ and the rules and regulations under the Act applicable to national securities exchanges and, in particular, the requirements of Section 6(b) of the Act.⁹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will provide members and investors with additional opportunities to trade customized options in an exchange environment, and investors will benefit as a result.

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.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ FLEX Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

⁶ See Rules 24A.4(a)(4)(i) and 24B.4(a)(5)(i).

⁷ See Rule 29.18.

⁸ 15 U.S.C. 78s(b)(1).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).