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Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted within 30 days of this notice.

Dated: February 18, 2009.

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, February 26, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The Acting General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Thursday, February 26, 2009 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: February 20, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9-3993 Filed 2-24-09; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59417; File No. SR-CBOE-2008-115]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendments No. 1 and 2 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendments No. 1 and 2 Thereto, Relating to FLEX Options Expirations

February 18, 2009.

#### I. Introduction

On November 19, 2008, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its rules regarding permissible expiration dates for Flexible Exchange Options ("FLEX Options"). On December 15, 2008, the proposed rule change was published for comment in the *Federal Register*.<sup>3</sup> On January 28, 2009, the Exchange filed Amendment No. 1<sup>4</sup> and on February 12, 2009, the Exchange filed Amendment No. 2.<sup>5</sup> The

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

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

<sup>3</sup> See Securities Exchange Act Release No. 59060 (December 5, 2008), 73 FR 76075 ("Notice").

<sup>4</sup> In Amendment No. 1, the Exchange: (1) Further amended Rules 24A.7, 24A.8, 24B.7 and 24B.8 to clarify the applicable exercise limits for FLEX Options that expire on a third Friday-of-the-month expiration day ("Expiration Friday"); (2) made a typographical correction to the rule text proposed to be added to Rule 24A.7.

<sup>5</sup> In Amendment No. 2, the Exchange (1) further amended Rules 24A.4 and 24B.4 to impose additional restrictions on FLEX Options that expire on any business day that falls on, or within two business days of, an Expiration Friday by specifying that they may only have an a.m. exercise settlement value; (2) made a technical correction to the

Commission received no comments on the proposed rule change. This order provides notice of filing of Amendments No. 1 and 2 to the proposed rule change and grants accelerated approval to the proposed rule change, as modified by Amendments No. 1 and 2.

#### II. Description of the Proposal

Under current CBOE Rules 24A.4 and 24B.4, FLEX Options<sup>6</sup> may not expire on any business day that falls on, or within two business days of, an Expiration Friday.<sup>7</sup>

In this proposed rule change, the Exchange proposed to eliminate the expiration date restriction on FLEX Options expiring on or within two business days of Expiration Friday ("Blackout Period") so that FLEX Options may expire on any business day. Under its proposal, position and exercise limits, as applicable under CBOE Rules, and reporting requirements would continue to apply.<sup>8</sup> The

reference to the Exchange Rules contained in footnote 6 of the original proposed rule change.

<sup>6</sup> FLEX Options (FLEX Index Options and FLEX Equity Options) provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. FLEX Index Options and FLEX Equity Options are index options and options on specified equity securities, respectively, that are subject to the FLEX rules in Chapters XXIVA or XXIVB of the CBOE Rules. FLEX Index Options Series may be approved and open for trading on any index that has been approved for Non-FLEX Options trading or for warrant trading on the Exchange. FLEX Equity Options transactions are limited to transactions in options on underlying securities that have been approved by the Exchange in accordance with CBOE Rule 5.3, which includes, but is not limited to, stock options and exchange-traded fund options. In addition, other products are permitted to be traded pursuant to the FLEX trading procedures. For example, credit options are eligible for trading as FLEX Options pursuant to the FLEX rules in Chapters XXIVA and XXIVB. See CBOE Rules 24A.1(e) and (f), 24A.4(b)(1) and (c)(1), 24B.1(f) and (g), 24B.4(b)(1) and (c)(1), and 28.19.

<sup>7</sup> For example, under the current rule, a FLEX Option could expire on the Tuesday before Expiration Friday, but could not expire on the Wednesday or Thursday before Expiration Friday. Similarly, a FLEX Option could expire on the Wednesday after Expiration Friday, but could not expire on the Monday or Tuesday after Expiration Friday. However, subject to certain aggregation requirements for cash settled options, the current FLEX Rules do permit the expiration of FLEX Options on the same day that Non-FLEX quarterly index options ("QIX") and Non-FLEX Weekly Options expire.

<sup>8</sup> FLEX Index Options overlying all industry indexes, all micro narrow-based indexes, and certain broad-based indexes are subject to position and exercise limits under CBOE Rules 24A.7, 24A.8, 24B.7, and 24B.8 and will continue to be under the proposal. FLEX Index Options on certain other broad-based indexes (specifically the BXM, DJX, NDX, OEX, RUT, SPX, VIX, VXD, VXN, XEO, CBOE S&P 500 Three-Month Realized Variance and S&P 500 Three-Month Realized Volatility), and FLEX Equity Options are not subject to position limits but would remain subject to reporting requirements under CBOE Rules 24A.7 and 24B.7.

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