

in firm size, types of businesses conducted, and overall business models. It should be noted that the overwhelming majority of CBOE's membership consists of broker-dealers that are not members of either NYSE or FINRA and that conduct business only with other broker-dealers.

AML Officer

The proposed rule change would also clarify that the AML Officer(s) must be an associated person of the member. This would not prohibit a member that is part of a diversified financial institution from designating an AML Officer that is employed by the member's parent company, sister company, or other affiliate. However, if such a person is designated as a member's AML Officer, CBOE would consider that person to be an associated person of the member with respect to those activities performed on behalf of the member.

III. Discussion and Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5) ⁷ of the Exchange Act.⁸ Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest. The Commission believes that the proposed rule change is designed to accomplish these ends by requiring members to conduct periodic tests of their AML compliance programs, preserve the independence of their testing personnel, and ensure the accuracy of their AML compliance programs.

IV. Conclusions

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change, as amended (SR-CBOE-2007-130), be, and hereby is, approved.

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

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57049; File No. SR-CBOE-2007-125]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to the \$1 Strike Pilot Program

December 27, 2007.

I. Introduction

On October 31, 2007, 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 a proposal to amend its rules relating to the \$1 Strike Pilot Program ("\$1 Strike Program"). On November 14, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The Exchange subsequently withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change on November 15, 2007. The proposed rule change, as amended, was published for comment in the **Federal Register** on November 23, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The purpose of the proposed rule change is to expand the \$1 Strike Program and to request permanent approval of the \$1 Strike Program. The \$1 Strike Program currently allows CBOE to select a total of 5 individual stocks on which option series may be listed at \$1 strike price intervals. To be eligible for selection into the \$1 Strike Program, the underlying stock must close below \$20 in its primary market on the previous trading day. If selected for the \$1 Strike Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$20, but no \$1 strike price may be listed that is greater than \$5

from the underlying stock's closing price in its primary market on the previous day. The Exchange also may list \$1 strikes on any other option class designated by another securities exchange that employs a similar \$1 Strike Program under their respective rules. The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any class selected for the \$1 Strike Program. The Exchange also is restricted from listing any series that would result in strike prices being \$0.50 apart.

The Exchange proposes to amend Interpretation and Policy .01 to CBOE Rule 5.5 to expand the \$1 Strike Program to allow it to select a total of 10 individual stocks on which option series may be listed at \$1 strike price intervals. Additionally, CBOE proposes to raise the upper limit of the price range on which it may list \$1 strikes from \$20 to \$50. The existing restrictions on listing \$1 strikes would continue, e.g., no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and CBOE would be restricted from listing any series that would result in strike prices being \$0.50 apart. In addition, because it believes that the \$1 Strike Program has been very successful by allowing investors to establish equity options positions that are better tailored to meet their investment objectives, CBOE requests that the \$1 Strike Program be approved on a permanent basis.

In its filing with the Commission, CBOE stated its belief that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower priced stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. According to CBOE, member firms representing customers have repeatedly requested that CBOE seek to expand the \$1 Strike Program, both in terms of the number of classes that can be selected and the range in which \$1 strikes may be listed. CBOE concluded from its analysis of the \$1 Strike Program that the impact on CBOE's, OPRA's, and market data vendors' respective automated systems has been minimal.⁴ CBOE has represented that it has sufficient capacity to handle an expansion of the \$1 Strike Program, as proposed.

Finally, the Exchange proposes to make a corresponding change to

⁷ 15 U.S.C. 78f(b)(5).

⁸ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56801 (November 16, 2007), 72 FR 65784 ("Notice").

⁴ See Notice, *supra* note 3, at 65785 (providing CBOE's \$1 Strike Program analysis on systems capacity).

Interpretation and Policy .11(e) to CBOE Rule 24.9 to (i) note that the Exchange shall designate no more than 9 individual stocks for inclusion in the \$1 Strike Program at the same time there are strike prices listed at \$1 intervals on Mini-SPX options,⁵ and (ii) make a technical correction to a cross-reference to Interpretation and Policy .01(a) to CBOE Rule 5.5.

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

After careful review and based on the Exchange's representations, 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.⁶ In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act⁷ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

Specifically, the Commission believes that the proposed expansion to permit the Exchange to select a total of 10 individual underlying stocks trading at less than \$50 on which option series may be listed at \$1 strike price intervals, and the request to make the \$1 Strike Program permanent, should provide investors with added flexibility in the trading of equity options and further the public interest by allowing investors to establish equity options 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 apply, *e.g.*, no \$1 strike price may be listed (a) that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, or (b) that would result in strike prices being \$0.50 apart.

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,⁸ that the proposed rule change (SR-CBOE-2007-125), as modified by Amendment No. 2 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57045; File No. SR-FINRA-2007-037]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to FINRA's New York Stock Exchange Rule 409(f)

December 27, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 21, 2007, the Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)⁴ thereunder, which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to amend New York Stock Exchange ("NYSE") Rule 409(f), to delete the requirement that certain confirmations and reports include the name of the securities market on which a transaction is effected. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

Rule 409. Statements of Accounts to Customers

(a) through (e) No change.

(f) Confirmation of all transactions (including those made "over-the-counter" and on other exchanges) in securities admitted to dealings on the Exchange, sent by members or member organizations to their customers, shall [indicate]*clearly set forth with a suitable legend* the settlement date of each transaction[and bear the name of the securities market on which the transaction was made]. This requirement also applies to confirmations or reports from an organization to a correspondent, but does not apply to reports made by floor brokers to the member organization from whom the orders were received.

[All confirmations shall contain a suitable legend clearly setting forth all required information.]

(g) No change.

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⁵ Although the \$1 Strike Program generally allowed CBOE to select a total of 5 individual stocks on which option series may be listed at \$1 strike price intervals, the \$1 Strike Program provided that CBOE could designate no more than 4 individual stocks for inclusion in the \$1 Strike Program at the same time there are strike prices listed at \$1 intervals on Mini-SPX options in accordance with Interpretation and Policy .11 to CBOE Rule 24.9. See Securities Exchange Act Release No. 52625 (October 18, 2005), 70 FR 61479 (October 24, 2005) (SR-CBOE-2005-81) (providing that as long as there are open Mini-SPX option series listed at \$1 strike price intervals, the Exchange would be required to surrender one of its five selections under the \$1 Strike Program). If CBOE decides to discontinue listing Mini-SPX option series at \$1 strike price intervals, CBOE would again be free to select up to 10 option classes for inclusion in the \$1 Strike Program, as proposed.

⁶ 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).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 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).

⁴ 17 CFR 240.19b-4(f)(6).