By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–62141; File No. SR–CBOE–2010–036]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Accelerated Approval of Proposed Rule Change To Permit $1 Strikes for Options on Trust Issued Receipts

May 20, 2010.

### I. Introduction

On April 13, 2010, 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 proposed rule change to permit $1 strikes for options on Trust Issued Receipts. The proposed rule change was published for comment in the **Federal Register** on April 23, 2010.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change on an accelerated basis.

### II. Description of the Proposal

CBOE has proposed to amend Rule 5.5, Series of Option Contracts Open for Trading, by adding new Interpretation and Policy .17 that would allow the Exchange to list options on the Trust Issued Receipts ("TIRs"), including HOLding Company Depository ReceiptS ("HOLDRS"), as defined under Interpretation and Policy .07 to Rule 5.3, in $1 or greater strike price intervals, where the strike price is $200 or less and $5 or greater where the strike price is greater than $200 (TIRs and HOLDRS are hereafter collectively referred to as TIRs).[4] The proposed strike price intervals for options on TIRs are consistent with the strike price intervals currently permitted for options on exchange-traded funds ("ETFs").[5]

In support of its proposal, CBOE stated that it believes the marketplace and investors will be expecting options on TIRs to trade in a similar manner to options on ETFs because TIRs have characteristics similar to ETFs.[6] Accordingly, the Exchange asserts that the rationale for permitting $1 strikes for ETF options equally applies to permitting $1 strikes for options on TIRs and that investors will be better served if $1 strike price intervals are available for options on TIRs (where the strike price is less than $200).

CBOE further stated that it has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of $1 strikes (where the strike price is less than $200) for options on TIRs.

### III. Discussion

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.[7] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities 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 a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the proposed strike price intervals for options on TIRS are consistent with the strike price intervals currently permitted for options on ETFs.[9] Accordingly, the proposal should provide consistency and predictability for investors who may view these products as serving similar investment functions in the marketplace to ETFs and may provide investors with greater flexibility in achieving their investment objectives.

In addition, the Commission notes that CBOE has represented that it believes the Exchange and the Options Price Reporting Authority CBOE and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of $1 strikes for options on TIRS.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[10] for approving the proposal prior to the thirtieth day after the date of publication of the Notice in the **Federal Register.** The Commission notes that it recently approved similar changes to strike price intervals for options on Index-Linked Securities for the Exchange.[11] The Commission also notes that it has not received any comments regarding this proposal. The Commission believes that the proposed changes to strike price intervals for options on TIRs do not raise any novel regulatory issues and accelerating approval of this proposal should benefit investors by creating consistency and predictability for investors who may view these products as serving similar investment functions in the marketplace to ETFs and greater flexibility in achieving their investment objectives.

### IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2010–036) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010–12693 Filed 5–26–10; 8:45 am]

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 61935 (April 16, 2010), 75 FR 21373 ("Notice").

[4] As more fully explained in the Notice, HOLDRS are a type of TIR. Currently, the strike price intervals for options on TIRs are as follows: (1) $2.50 or greater where the strike price is $25.00 or less; (2) $5.00 or greater where the strike price is greater than $25.00; and (3) $10.00 or greater where the strike price is greater than $200. *See* CBOE Rule 5.5.01(c)–(e).

[5] *See* Interpretation and Policy .08 to Rule 5.5. *See also* Securities Exchange Act Release No. 46507 (September 17, 2002), 67 FR 60266 (September 25, 2002) (permitting list of options on ETFs at $1 strike price intervals) (SR–CBOE–2002–54).

[6] *See* Notice, *supra* note 3, for CBOE's explanation of how TIRS are similar to ETFs.

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

[8] 15 U.S.C. 78f(b)(5).

[9] *See supra* note 5.

[10] 15 U.S.C. 78s(b)(2).

[11] *See* Securities Exchange Act Release No. 61696 (March 12, 2010), 75 FR 13174 (March 18, 2010) (SR–CBOE–2010–005).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).