

estimates are not derived from a comprehensive or even a representative survey or study of Commission rules.

In addition to the burden hours, Commission staff estimates that money market funds will incur costs to preserve records required under rule 2a-7. These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy or has developed and maintains a computer system to create and preserve compliance records.⁸ Commission staff estimates that the amount an individual fund may spend ranges from \$100 per year to \$300,000. Based on a cost of \$0.0051295 per dollar of assets under management for small funds, \$0.0005041 per dollar assets under management for medium funds, and \$0.0000009 per dollar of assets under management for large funds,⁹ the staff estimates compliance with rule 2a-7 costs the fund industry approximately \$72.4 million per year.¹⁰ Based on responses from individuals in the money market fund industry, the staff estimates that some of the largest fund complexes have created computer programs for maintaining and preserving compliance records for rule 2a-7. Based on a cost of \$0.0000132 per dollar of assets under management for large funds, the staff estimates that total annualized capital/startup costs range from \$0 for small funds to \$48.8 million for all large funds. Commission staff further estimates that, even absent the requirements of rule 2a-7, money market funds would spend at least half of the amount for capital costs (\$24.4 million) and for record preservation (\$36.2 million) to establish and maintain these records and the systems for preserving them as a part of sound

⁸ The amount of assets under management in individual money market funds ranges from approximately \$300,000 to approximately \$162 billion.

⁹ For purpose of this PRA submission, Commission staff used the following categories for fund sizes: (i) Small—money market funds with \$50 million or less in assets under management, (ii) medium—money market funds with more than \$50 million up to and including \$1 billion in assets under management; and (iii) large—money market funds with more than \$1 billion in assets under management.

¹⁰ The staff estimated the annual cost of preserving the required books and records by identifying the annual costs incurred by several funds and then relating this total cost to the average net assets of these funds during the year. With a total of \$1 billion under management in small funds, \$126.8 billion under management in medium funds and \$3.7 trillion under management in large funds, the costs of preservation were estimated as follows: $((0.0051295 \times \$1 \text{ billion}) + (0.0005041 \times \$126.8 \text{ billion}) + (0.0000009 \times \$3.7 \text{ trillion})) = \72.38 million .

business practices to ensure diversification and minimal credit risk in a portfolio for a fund that seeks to maintain a stable price per share.

The collections of information required by rule 2a-7 are necessary to obtain the benefits described above. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The Commission requests written comments are requested on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, 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.

Dated: June 24, 2009.

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60164; File No. SR-CBOE-2009-029]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change To Permanently Establish the Quarterly Option Series Program

June 23, 2009.

On May 7, 2009, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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 permanently establish its Quarterly Option Series pilot program (the “QOS Program”). The proposed rule change was published for comment in the **Federal Register** on May 21, 2009.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

The Exchange established the QOS Program on a pilot basis on July 7, 2006.⁴ The QOS Program allows CBOE to list and trade Quarterly Option Series, which expire at the close of business on the last business day of a calendar quarter. Under the QOS Program, CBOE may select up to five (5) currently listed exchange traded fund (“ETF”) or index option classes on which Quarterly Option Series may be opened. The Exchange has selected the following five ETF option classes to participate in the QOS Program: DIAMONDS Trust (DIA) options; Standard and Poor's Depository Receipts/SPDRs (SPY) options; iShares Russell 2000 Index Fund (IWM) options; PowerShares QQQ Trust (QQQQ) options; and Energy Select SPDR (XLE) options. In addition, CBOE may also list Quarterly Option Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules.

The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the following calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2009, it may list series that expire at the end of the second, third, and fourth quarters of 2009, as well as the first and fourth quarters of 2010. Following the second quarter 2009 expiration, the Exchange could add series that expire at the end of the second quarter of 2010.

For each class of ETF options selected for the QOS Program, the Exchange may list strike prices within \$5 from the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59601 (March 19, 2009), 74 FR 13281.

⁴ See Securities Exchange Act Release No. 54123 (July 11, 2006), 71 FR 40558, (July 17, 2006) (SR-CBOE-2006-65). The QOS Program has since been extended and is currently scheduled to expire on July 10, 2009. See Securities Exchange Act Release Nos. 56035 (July 10, 2007), 72 FR 38851, (July 16, 2007) (SR-CBOE-2007-70) (immediately effective rule change extending the QOS Program through July 10, 2008) and 58018 (June 25, 2008), 73 FR 38010 (July 2, 2008) (SR-CBOE-2008-62) (immediately effective rule change extending the QOS Program through July 10, 2009).

previous day's closing price of the underlying security at the time of initial listing. Subsequently, the Exchange may list up to 60 additional strike prices that are within thirty percent (30%) of the previous day's close, or more than 30% away from the previous day's close provided demonstrated customer interest exists for such series.⁵

The Exchange has also adopted a delisting policy with respect to QOS in ETF options.⁶ On a monthly basis, the Exchange reviews series that are outside a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delists series with no open interest in both the put and the call series having either: (i) A strike price higher than the highest strike price with open interest in the put and/or call series for a given expiration month; or (ii) a strike price lower than the lowest strike price with open interest in the put and/or call series for a given expiration month. Notwithstanding the foregoing, the delisting policy also provides that customer requests to add strikes and/or maintain strikes in QOS in ETF options in series eligible for delisting shall be granted by the Exchange.

The Exchange also may list Quarterly Option Series based on an underlying index pursuant to similar provisions in Rule 24.9. There are two noteworthy distinctions between the rules for listing QOS based on an ETF versus QOS based on an index. First, whereas the initial listing of QOS based on an underlying ETF is restricted to strike prices within \$5 from the previous day's closing price of the underlying security, the initial listing of strikes for QOS based on an underlying index is restricted to: (i) A price that is within thirty percent (30%) of the previous day's close, and (ii) no more than five strikes above and five strikes below the value of the underlying index. Second, whereas the Exchange may list up to 60 additional strike prices for each QOS based on an ETF, there is no firm cap on the additional listing of strikes for QOS based on an underlying index; rather, additional strike prices may be listed provided the new listings do not result in more than five strike prices on the same side of the underlying index value as the new listings. To date, the Exchange has not listed any Quarterly

Option Series based on an underlying index.

In support of its proposal to permanently establish the QOS Program, and as required by the terms of the Pilot Program,⁷ the Exchange submitted to the Commission a report detailing the Exchange's experience with the QOS Program (the "Report").⁸ In addition to the Report, the Exchange represented that it has not experienced any capacity-related problems with respect to Quarterly Option Series, and that it has the necessary systems capacity to continue to support the option series listed under the QOS Program. Finally, the Exchange stated its belief that there is sufficient investor interest in, and demand for, the QOS Program to warrant its permanent approval.

After careful review, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,⁹ and, in particular, the requirements of Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the rules of a national securities exchange be designed 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 finds that the QOS Program, as evidenced by the Report, has furthered the public interest by offering investors an alternative means of managing their risk exposures and carrying out their investment objectives. The Commission notes CBOE's representation that there is sufficient investor interest in the QOS Program to warrant its permanent approval. The Commission further notes CBOE's representations that it has not experienced any capacity-related problems with respect to Quarterly Option Series, and that the Exchange has the necessary system capacity to continue to support the option series listed under the QOS Program. Accordingly, the Commission finds that the proposed QOS Program strikes a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid the unnecessary

proliferation of option series that could compromise systems capacity. The Commission expects CBOE to continue to monitor the trading and quotation volume associated with the QOS Program, and the effect the QOS Program has on the capacity of the Exchange's, OPRA's, and vendors' systems. In addition, the Commission expects the Exchange, consistent with its QOS delisting policy, to continue to monitor for option series with little or no open interest and trading activity and to act promptly to delist such options in order to mitigate the number of options series with no open interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-2009-029) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60165; File No. SR-BX-2009-029]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a Flash and Cancel Order

June 23, 2009.

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 June 17, 2009, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change, as amended, as constituting a rule change under Rule 19b-4(f)(6) under the Act,³ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

⁵ "Demonstrated customer interest" includes interest expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account may not be considered when determining customer interest under this provision.

⁶ See Securities Exchange Act Release No. 57410 (March 3, 2008), 73 FR 12483 (March 7, 2008) (SR-CBOE-2007-96).

⁷ See Securities Exchange Act Release No. 54123, *supra* note 4.

⁸ The Report was submitted under separate cover and seeks confidential treatment under the Freedom of Information Act.

⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).