

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65445; File No. SR-CBOE-2011-086]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule To Increase the Number of Series Permitted per Class in the Short Term Option Series Program

September 30, 2011.

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> notice is hereby given that on September 19, 2011, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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

Chicago Board Options Exchange, Incorporated proposes to amend Rules 5.5 and 24.9 to increase the number of Short Term Options Series that may be opened for each option class that participates in the Exchange’s Short Term Option Series Program (“Weeklys Program”) from 20 series to 30 series. The text of the rule proposal 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’s public reference room.

#### 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 this proposed rule change is to amend Rules 5.5 and 24.9 to increase the number of Short Term Options Series (“Weekly options”) that may be opened for each option class that participates in the Exchange’s Short Term Option Series Program (“Weeklys Program”).<sup>3</sup> Currently, a total of 20 series may be opened for trading in each class that participates in the Weeklys Program. The Exchange is proposing to increase this to a total of 30 series per class that may be opened for trading.<sup>4</sup>

The Weeklys Program is codified in Rule 5.5 and 24.9. These rules provide that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than fifteen option classes that expire on the Friday of the following business week that is a business day. The strike price of each Weekly option has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the Weekly options are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. The Exchange is not proposing any changes to these additional Weeklys Program limitations.

The principal reason for the proposed expansion is market demand for additional series in Weekly option classes in which the maximum number of series (20) has already been reached. Specifically, the Exchange has observed increased demand for more series when market moving events, such as corporate events and large price swings, have occurred during the life span of an affected Weekly option class. Currently, in order to be able to respond to market demand, the Exchange is forced to

delete or delist certain series in order to make room for more in demand series.<sup>5</sup> The Exchange finds this method to be problematic for two reasons.

First, the Exchange has received requests to keep series that it intends to delete/delist to make room for more in demand series. While market participants may access other markets for the deleted/delisted series, the Exchange would prefer to provide market participants with their preferred choice of markets to trade—CBOE. Second, this method can lead to competitive disadvantages among exchanges. If one exchange is actively responding to market demand by deleting/delisting and adding series, if another exchange is the last to list the less desirable series with open interest, that exchange is stuck with those series and unable to list the in demand series (because to do so would result in more than 20 series being listed on that exchange). As a result, the maximum number of series per class of options that participates in the Weeklys Program should be increased to 30 so that exchanges can list the full panoply of series that other exchange list and which the market demands.

To affect this change, the Exchange is proposing to amend Rule 5.5 and 24.9. Specifically, the Exchange is proposing to limit the initial number of series that may be opened for trading to 20 series and to limit the number of additional series that may be opened for trading to 10 series.<sup>6</sup>

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of series for classes that participate in the Weeklys Program.

The Exchange believes that the Weeklys Program has provided investors with greater trading

<sup>5</sup> The Exchange deletes series with no open interest and delists series with open interest if those series are open for trading on another exchange.

<sup>6</sup> Series must be added pursuant to the existing listing parameters set forth in Rule 5.5 and 24.9. Initial series shall be within 30% above or below the closing price of the underlying security on the preceding day. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current price of the underlying security. The Exchange may also open additional strike prices of Short Term Option Series that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest.

<sup>3</sup> On July 12, 2005, the Commission approved the Weeklys Program on a pilot basis. See Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR-CBOE-2004-63). The Weeklys Program was made permanent on April 27, 2009. See Securities Exchange Act Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018).

<sup>4</sup> The Exchange previously increased the total number of series per Weeklys option class from 7 to 20 series. See Securities Exchange Act Release No. 58870 (October 28, 2008), 73 FR 65430 (November 3, 2008) (SR-CBOE-2008-110) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Short Term Series Option Program).

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

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

opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. Therefore, the Exchange requests a modest expansion of the current Weeklys Program.

It is expected that other options exchanges that have adopted a Weeklys Program will submit similar proposals.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>7</sup> of the Act and the rules and regulations under the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that expanding the number of series per option class eligible to participate in the Weeklys Program will allow the investing public and other market participants to better manage their risk exposure, and would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities. While the expansion of the Weeklys Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal is limited to a fixed number of series per class. Further, the Exchange does not believe that the proposal will result in a material proliferation of additional series because it is limited to a fixed number of series per class and the Exchange does not believe that the additional price points will result in fractured liquidity.

### *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*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2011-086 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2011-086. 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 Web site viewing and printing 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 CBOE. 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 publicly available. All submissions should refer to File Number SR-CBOE-2011-086 and should be submitted on or before October 27, 2011.

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

**Elizabeth M. Murphy,**  
*Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65448; File No. SR-BYX-2011-024]

### **Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend BYX Rule 13.3 To Prohibit Members From Voting Uninstructed Shares on Certain Matters and To Align BYX Rule 13.3, Concerning the Forwarding of Proxy and Other Material and Proxy Voting, With the Rules of Other Self-Regulatory Organizations**

September 30, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or the "Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 16, 2011, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).