

appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and consistent with and supported by Commission precedent. Applicants also submit that the provisions for recapture of Credit Enhancements under the Contracts do not violate Section 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c-1 thereunder.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,
Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58043; File No. SR-ODD-2008-02]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Changes to Disclosure Regarding Certain Binary Stock and Index Options, Range Options and Delayed Start Options

June 26, 2008.

On June 9, 2008, The Options Clearing Corporation (“OCC”) submitted to the Securities and Exchange Commission (“Commission”), pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (“Act”),¹ five preliminary copies of a supplement to its options disclosure document (“ODD”) reflecting changes to disclosure regarding certain binary options on stock and broad-based indexes, range options and delayed start options (“DSOs”).² On June 26, 2008, the OCC submitted to the Commission five definitive copies of the supplement.³

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. Recently, the Chicago Board Options Exchange, Incorporated (“CBOE”) amended its rules to permit the listing

and trading of certain binary index options.⁴ The CBOE also recently amended its rules to permit the listing and trading of range options.⁵ The proposed supplement amends the ODD to accommodate these changes by providing disclosure regarding certain binary stock and index options, range options and DSOs.⁶

Specifically, the proposed supplement to the ODD adds new disclosure regarding the characteristics of binary index options on broad-based indexes as well as the special risks of these binary index options. The proposed supplement to the ODD also adds new disclosure regarding the characteristics and special risks of range options. Finally, the proposed supplement makes disclosures regarding the characteristics and special risks of binary stock options and DSOs.⁷ The proposed supplement is intended to be read in conjunction with the more general ODD, which, as described above, discusses the characteristics and risks of options generally.⁸

Rule 9b-1(b)(2)(i) under the Act⁹ provides that an options market must file five copies of an amendment or supplement to the ODD with the

⁴ See Securities Exchange Act Release No. 57850 (May 22, 2008), 73 FR 31169 (May 30, 2008) (SR-CBOE-2006-105). CBOE Rule 22.3(a) permits it to trade binary options on any broad-based index that has been selected in accordance with CBOE Rule 24.2.

⁵ See Securities Exchange Act Release No. 57376 (February 25, 2008), 73 FR 11689 (March 4, 2008) (SR-CBOE-2007-104). CBOE Rule 20.3(a) permits it to trade range options on any index that is eligible for options trading on CBOE.

⁶ The proposed June supplement supersedes and replaces the April 2008 supplement to the ODD to accommodate the approval of trading of certain binary index options and range options. See notes 4 and 5, *supra*. The April 2008 supplement contained disclosure on binary options on individual equity securities, including exchange-traded funds, and DSOs, which were previously approved for trading by the Commission. See Securities Exchange Act Release No. 56251 (August 14, 2007), 72 FR 46523 (August 20, 2007) (SR-Amex-2004-27) (order approving the listing and trading of binary options on individual stocks and exchange-traded funds, also known as fixed return options) and Securities Exchange Act Release No. 56855 (November 28, 2007), 72 FR 68610 (December 5, 2007) (CBOE-2006-90) (order approving the listing and trading of DSOs).

⁷ The Commission notes that the disclosure regarding binary stock options and DSOs in the proposed June supplement is substantially similar to that provided in the April 2008 supplement.

⁸ The Commission notes that the options markets must continue to ensure that the ODD is in compliance with the requirements of Rule 9b-1(b)(2)(i) under the Act, 17 CFR 240.9b-1(b)(2)(i), including when future changes regarding binary index options, range options and/or DSOs are made. Any future changes to the rules of the options markets concerning binary index options, range options and/or DSOs would need to be submitted to the Commission under Section 19(b) of the Act. 15 U.S.C. 78s(b).

⁹ 17 CFR 240.9b-1(b)(2)(i).

Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of information disclosed and the public interest and protection of investors.¹⁰ In addition, five copies of the definitive ODD, as amended or supplemented, must be filed with the Commission not later than the date the amendment or supplement, or the amended options disclosure document, is furnished to customers. The Commission has reviewed the proposed supplement and finds, having due regard to the adequacy of information disclosed and the public interest and protection of investors, that the proposed supplement may be furnished to customers as of the date of this order.

It is therefore ordered, pursuant to Rule 9b-1 under the Act,¹¹ that definitive copies of the proposed supplement to the ODD (SR-ODD-2008-02), reflecting changes to disclosure regarding certain binary stock and index options, range options and DSOs may be furnished to customers as of the date of this order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,
Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58051; File No. SR-CBOE-2008-54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Related to Sponsored Users

June 27, 2008.

On May 12, 2008, Chicago Board Options Exchange, Incorporated (“CBOE”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4 thereunder,² a proposed rule change to amend CBOE Rule 6.20A to permit Sponsored User

¹⁰ This provision permits the Commission to shorten or lengthen the period of time which must elapse before definitive copies may be furnished to customers.

¹¹ 17 CFR 240.9b-1.

¹² 17 CFR 200.30-3(a)(39).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹ 17 CFR 240.9b-1.

² See letter from Jean M. Cawley, Senior Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division of Trading and Markets (“Division”), Commission, dated June 9, 2008.

³ See letter from Jean M. Cawley, Senior Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division of Commission, dated June 25, 2008.