

submissions should refer to File Number SR–NYSEAmex–2009–64 and should be submitted on or before October 26, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60727; File No. SR–CBOE–2009–067]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Bid/Ask Differentials

September 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on September 21, 2009, Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b–4(f)(6) thereunder.<sup>4</sup> 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

The Exchange proposes to amend its rules relating to bid/ask differentials. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE and at the Commission.

#### 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

CBOE proposes to amend its rules pertaining to the bid/ask differential requirements. Currently, Rule 8.7(b)(iv) specifies the bid/ask differential requirements applicable to Market-Makers when bidding and offering in open outcry, during opening rotations and when quoting electronically on the Hybrid Trading System.<sup>5</sup> With respect to bidding and offering in open outcry and during opening rotations, the requirements vary depending on the price of the bid. For example, Rule 8.7(b)(iv)(A) states that the quote widths shall not be more than: \$0.25 if the bid is less than \$2; \$0.40 where the bid is at least \$2 but does not exceed \$5; \$0.50 where the bid is more than \$5 but does not exceed \$10; \$0.80 where the bid is more than \$10 but does not exceed \$20; and \$1 where the bid is more than \$20. With respect to electronic quoting on the Hybrid Trading System, the bid/ask differential requirement is \$5. Rule 8.7(b)(iv) also provides that CBOE may establish quote width differences other than those set forth above for one or more option series. Some or all of these quote width differentials are also applicable to LMMs in Hybrid 3.0 classes (see Rule 8.15), LMMs in Hybrid classes (see Rule 8.15A), DPMs (see Rule 8.85), and e-DPMs (see Rule 8.93), depending on the manner in which the market participant functions.

CBOE proposes to amend its rules to allow the Exchange to set the bid/ask differential requirements on a class by class basis, and delete from its rules the specific differentials identified in Rule 8.7(b)(iv). CBOE would announce the bid/ask differentials to its members via

circular. Although CBOE at this time does not anticipate materially changing the bid/ask differentials from their current levels, it believes that this change provides it with additional flexibility to tailor the bid/ask differential requirements to particular option classes and to take into consideration the market conditions and the trading and liquidity in a particular option class and its underlying security when setting the bid/ask differentials. Under its existing rules, CBOE from time to time grants bid/ask relief in various option classes based on market conditions and it has not experienced any negative effects from such actions. CBOE believes that the proposed rule change will allow CBOE to continue to set the bid/ask differentials at an appropriate level which may be different than the existing bid/ask differentials, rather than waiting for market participants to request bid/ask relief as it traditionally has been done. CBOE notes that the rules of the Nasdaq Options Market do not contain any bid/ask differential requirements, even though CBOE does not anticipate mimicking that market structure. Accordingly, CBOE believes that this proposed change is consistent with the Act.

In connection with this proposal, CBOE proposes to make related changes to Rules 6.2B, 6.13, 6.25, 6.53C, 8.14, 8.15, 8.15A, 8.85, and 8.93, which currently reference the bid/ask differentials in Rule 8.7(b)(iv).

Finally, CBOE proposes to amend Rule 8.93(iv) to state that an e-DPM is obligated to assure that its market quotations comply with the minimum size requirements prescribed by CBOE, which minimum shall be at least one contract. Last year, CBOE amended its rules to allow the Exchange to set a minimum quotation size requirement for electronic and open outcry quotes on a class by class basis, provided the minimum set by the Exchange is at least one contract.<sup>6</sup> In that filing, changes to Rule 8.93 were inadvertently omitted.

###### 2. Statutory Basis

The proposed rule change would permit the Exchange to set the bid/ask differential requirements on a class by class basis. CBOE believes that this flexibility will enable the Exchange to tailor the bid/ask differential requirements to particular classes and to take into consideration the market conditions and the trading and liquidity

<sup>16</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>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b–4(f)(6).

<sup>5</sup> Pursuant to Rule 1.1(aaa), reference to Hybrid Trading System includes the Hybrid 3.0 Platform unless otherwise specified.

<sup>6</sup> See Securities Exchange Act Release No. 58828 (October 21, 2008), 73 FR 63749 (October 27, 2008), granting immediate effectiveness to SR–CBOE–2008–107.

in a particular option class and its underlying security. Accordingly, the Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) Act<sup>8</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

#### *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**

Because the forgoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,<sup>9</sup> it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public

interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

### **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 No. SR-CBOE-2009-067 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 No. SR-CBOE-2009-067. 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 changes 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 inspection and copying 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 available publicly. All submissions should refer to File No. SR-CBOE-2009-067 and should be submitted on or before October 26, 2009.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60737; File No. SR-NYSE-2009-96]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC Permitting Affiliation With NYFIX Millennium L.L.C. and NYFIX Securities Corporation**

September 29, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on September 22, 2009, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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**

The Exchange proposes to be affiliated with two registered broker-dealer subsidiaries of NYFIX, Inc. ("NYFIX"), NYFIX Millennium L.L.C. ("NYFIX Millennium") and NYFIX Securities Corporation ("NYFIX Securities"), for a period not to exceed six months and subject to certain limitations and obligations relating to the relationship.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and the 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

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

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

<sup>9</sup> The Exchange has fulfilled this requirement.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.